THE SCOTS STATUTES REVISED

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THE SCOTS STATUTES REVISED

VOLUME II

THE

PUBLIC GENERAL STATUTES AFFECTING SCOTLAND

1820—1842

1 GEORGE IV. TO 5 & 6 VICTORIA

IN SO FAR AS UNREPEALED BY SUBSEQUENT LEGISLATION UP TO AND INCLUDING THE ACTS OF THE SESSION 62 & 63 VICTORIA, 1899

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1899

INTRODUCTORY NOTE.

THIS volume is framed on the principles stated in the Introductory Note to Volume I.

The revision has been effected as at the end of the First Session of 1899.

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THE SCOTS STATUTES REVISED

SCOTS STATUTES REVISED, 1707 TO 1900.

STATUTES OF KING GEORGE THE FOURTH.

1 GEORGE 4, 1820.

CHAPTER IV.

THE STAGE COACHES (SCOTLAND) ACT, 1820 (*Short Titles Act*, 1896).

AN ACT for punishing criminally Drivers of Stage Coaches and Carriages for Accidents occasioned by their wilful Misconduct. [6th June 1820.]

[*Preamble.*]

1. DRIVERS OF PUBLIC CARRIAGES OCCASIONING ACCIDENTS BY FURIOUS DRIVING, GUILTY OF A MISDEMEANOR—PROVISO AS TO HACKNEY COACHES.—If any person whatever shall be maimed or otherwise injured by reason of the wanton and furious driving or racing, or by the wilful misconduct of any coachman or other person having the charge of any stage coach or public carriage, such wanton and furious driving or racing or wilful misconduct of such coachman or other person shall be and the same is hereby declared to be a misdemeanor, and punishable as such by fine and imprisonment: Provided always, that nothing in this Act contained shall extend or be construed to extend to hackney coaches, being drawn by two horses only, and not plying for hire as stage coaches.

CHAPTER LVII.

THE WHIPPING ACT, 1820 (*Short Titles Act*, 1896).

AN ACT to repeal an Act passed in the Fifty-seventh Year of the Reign of His late Majesty King George the Third, intituled "An Act to abolish the "Punishment of public Whipping on Female Offenders," and to make further Provisions in lieu thereof. [15th July 1820.]

[*Preamble.*]

[*S.* **1** (*repealing* 57 *Geo* 3, *c.* 75) *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

2. JUDGMENT OR SENTENCE OF WHIPPING SHALL NOT BE AWARDED ON FEMALE OFFENDERS.—Judgment or sentence shall in no case whatever be given and awarded against any female or females convicted of any offence whatsoever, that such female offender or offenders do suffer the punishment of being whipped either publicly or privately; any law, statute, or usage to the contrary notwithstanding.

3. BUT INSTEAD THEREOF IMPRISONMENT WITH HARD LABOUR OR SOLITARY CONFINEMENT.—In all cases where the punishment of whipping, either publicly or privately, on female offenders, has hitherto formed the whole or part of the judgment or sentence to be pronounced, or has in any other case been inflicted, it shall and may be lawful for the court or justice of the peace before whom any such offender shall be tried or convicted, to pass sentence of confinement to hard labour in the common gaol or house of correction, for any space of time not exceeding six months, nor less than one month, or

of solitary confinement therein for any space not exceeding the space of seven days at any one time, in lieu of the sentence of being publicly or privately whipped, as to the said court of justice shall seem most proper: Provided that nothing herein contained shall extend or be construed to extend in any manner to change, alter, or affect any punishment whatsoever which may now be by law inflicted in respect of any offence, save and except only the punishment of publicly or privately whipping on female offenders, in manner as herein-before is enacted.

CHAPTER XCII.

THE BANK NOTES FORGERY (SCOTLAND) ACT, 1820 (*Short Titles Act*, 1896).

AN ACT for the further Prevention of forging and counterfeiting of Bank Notes. [24th July 1820.]

Whereas the forgery of bank notes hath of late very much increased in this kingdom; and as well for the prevention thereof, as to facilitate the detection of the same, the governor and company of the Bank of England have, after great consideration, labour, and expence, formed a new plan for printing bank notes, in which the groundwork of each bank note will be black or coloured, or black and coloured line work, and the words "Bank of England" will be placed at the top of each bank note, in white letters upon a black, sable, or dark ground, such ground containing white lines intersecting each other, and the numerical amount or sum of each bank note in the body of the note will be printed in black and red register work, and the back of each note will distinctly show the whole contents thereof, except the number and date in a reversed impression: Therefore, for the better prevention of the forgery of bank notes, and for the security of the public, be it enacted by the King's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that

1. UNAUTHORIZED PERSONS ENGRAVING, &C. ON ANY PLATE FOR PRODUCING AN IMPRESSION OF ALL OR ANY PART OF A BANK NOTE OF THE BANK OF ENGLAND, OF THE SPECIFIED DESCRIPTION, OR USING SUCH PLATE, &C. FOR PRINTING ANY SUCH NOTE, OR HAVING SUCH PLATE IN CUSTODY, OR UTTERING ANY SUCH NOTE, SHALL BE GUILTY OF FELONY AND BE TRANSPORTED FOR 14 YEARS.—If any person or persons (other than the officers, workmen, servants, and agents for the time being of the said governor and company, to be authorized and appointed for that purpose by the said governor and company, and for the use of the said governor and company only) shall engrave, cut, etch, scrape, or by any other art, means, or device make, or shall cause or procure to be engraved, cut, etched, scraped, or by any other art, means, or device made, or shall knowingly aid or assist in the engraving, cutting, etching, scraping, or by any other art, means, or device making, in or upon any plate of copper, brass, steel, iron, pewter, or of any other metal or mixtures of metal, or upon wood or other materials, or any plate whatsoever, for the purpose of producing a print or impression of all or any part or parts of a bank note, or of a blank bank note, of the said governor and company, of the description aforesaid, without an authority in writing from the said governor and company, or shall use any such plate so engraved, cut, etched, scraped, or by any other art, means, or device made, or shall use any other instrument or contrivance, for the making or printing any such bank note or blank bank note or part of a bank note of the description aforesaid; or if any person or persons shall, without such authority as aforesaid, knowingly and without lawful excuse, have in his, her, or their custody any such plate or instrument, or without such authority as aforesaid shall knowingly or wilfully utter, publish, dispose of, or put away any such blank bank note or part of such bank note of the description aforesaid; every person so offending in any of the cases aforesaid, and being thereof convicted according to law, shall be adjudged a felon, and shall be transported for the term of fourteen years.

2. UNAUTHORIZED PERSONS ENGRAVING, &C. ON ANY PLATE ANY RESEMBLANCE OF THE GROUND WORK OF A BANK NOTE OF THE BANK OF ENGLAND, OF THE SPECIFIED DESCRIPTION, &C., OR USING SUCH PLATE, &C. FOR PRINTING SUCH RESEMBLANCE, &C.; OR HAVING SUCH PLATE IN THEIR CUSTODY, OR UTTERING ANY SUCH RESEMBLANCE, &C., OR HAVING THE SAME IN THEIR CUSTODY, SHALL BE GUILTY OF FELONY AND BE TRANSPORTED FOR 14 YEARS.—[*Recital*] If any person or persons shall engrave, cut, etch, scrape, or by any other

art, means, or device make, or shall cause or procure to be engraved, cut, etched, scraped, or by any other art, means, or contrivance made, or shall knowingly aid or assist in the engraving, cutting, etching, scraping, or by any other art, means, or contrivance making, in or upon any plate of copper, brass, steel, iron, pewter, or of any other metal or mixture of metals, or upon wood, or any other materials, or upon any plate whatsoever, any line work, as or for the ground work of a promissory note or bill of exchange, the impression taken from which line work shall be intended to resemble the ground work of a bank note of the said governor and company of the description aforesaid, or any device, the impression taken from which shall contain the words "Bank of England," in white letters upon a black, sable, or dark ground, either with or without white or other lines therein, or shall contain in any part thereof the numerical sum or amount of any promissory note or bill of exchange in black and red register work, or shall show the reversed contents of a promissory note or bill of exchange, or of any part of a promissory note or bill of exchange, or shall contain any word or words, figure or figures, character or characters, pattern or patterns, which shall be intended to resemble the whole or any part of the matter or ornaments of any bank note of the description aforesaid, or shall contain any word, number, figure, or character, in white on a black, sable, or dark ground, either with or without white or other lines therein, which shall be intended to resemble the numerical sum or amount in the margin or any other part of any bank note of the said governor and company, without an authority in writing for that purpose from the said governor and company, to be produced and proved by the party accused; or if any person or persons shall, (without such authority as aforesaid) use any such plate, wood, or other material so engraved, cut, etched, scraped, or by any other art, means or contrivance made, or shall use any other instrument or contrivance, for the making or printing upon any paper or other material any word or words, figure or figures, character or characters, pattern or patterns, which shall be intended to resemble the whole or any part of the matter or ornaments of any such note of the said governor and company, of the description aforesaid, or any word, figure, or character in white on a black, sable, or dark ground, either with or without white or other lines therein, which shall be apparently intended to resemble the numerical sum or amount in the margin or any other part of any bank note of the said governor and company; or if any person or persons shall, without such authority as aforesaid, knowingly have in his, her, or their custody or possession any such plate or instrument, or shall knowingly and wilfully utter, publish, or dispose of, or put away any paper or other material containing any such word or words, figure or figures, character or characters, pattern or patterns as aforesaid, or shall knowingly or willingly have in his, her, or their custody or possession any paper or other material containing any such word or words, figure or figures, character or characters, pattern or patterns as aforesaid (without lawful excuse, the proof whereof shall lie upon the person accused); every person so offending in any of the cases aforesaid, and being convicted thereof according to law, shall be adjudged a felon, and shall be transported for the term of fourteen years.

[*S.* **3** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

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1 & 2 GEORGE 4, 1821.

CHAPTER XXXVIII.

THE COURT OF SESSION ACT, 1821 (*Short Titles Act*, 1896).

AN ACT for establishing Regulations respecting certain Parts of the Proceedings in the Court of Session, and in the Court of Commissioners for Teinds, and respecting the Duties, Qualifications, and Emoluments of certain Clerks and other Officers of the said Courts.[1] [28th May 1821.]

[1] *The provisions of this Act are rep.* 6 *Geo.* 4, *c.* 120, *s.* 1, *in so far as the same may be found inconsistent with the regulations in that section expressed.*

[*Preamble recites* 50 *Geo.* 3, *c.* 112, *and* 53 *Geo.* 3, *c.* 64.]

1. On Bills of Advocation and Suspension complaining of Final Judgments of Inferior Judges, the Cause may be remitted with Instructions.—Upon bills of advocation and suspension complaining of final judgments of sheriffs and other inferior judges, it shall hereafter be competent either for the lord ordinary on the bills or for the court to remit the cause to the inferior judge, with instructions how to proceed; but no such remit shall be made, except in the case of a suspension of a decreet in absence, without hearing counsel, or receiving a written answer on the part of the respondent.

[*S.* **2** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

3. Provision in case of Equality of Voices, upon Report of the Lord Ordinary on the Bills to the Lords of either Division.—In all cases in which, upon report of the lord ordinary on the bills to the lords of either division, there shall be a difference of opinion, and an equality of voices, such lord ordinary on the bills shall vote in the case; . . . . . .

S. 3 *in part rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).

4. Provision in case of the Death, Sickness, &c. of the Lord Ordinary on the Bills during Session, but when the Court is not sitting.—In case of the death, sickness, necessary absence, or legal declinature of the lord ordinary on the bills during the period of the session, but at a time when the court is not actually sitting, any one of the permanent ordinaries, on a due statement by any of the clerks of the bills of such fact, and of some urgency in the case, shall and may pronounce on any bill which may in such case be laid before him such interlocutor as circumstances may require; without prejudice, quoad ultra, to the provisions of the aforesaid Act passed in the fifty-third year of his said late Majesty's reign, and also without prejudice to the power of either division, upon legal declinature of the lord ordinary on the bills when represented to them in any case, to remit the same to another ordinary in his stead.

[*Ss.* **5–7** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

8. Salaries to the Clerks of the Bills.—From and after the time when, in terms of the regulations contained in the said Act passed in the fiftieth year of the reign of his late Majesty, there shall be only two depute clerks of the bills, each of whom would be entitled, by virtue of the said Act, to draw one-sixth part of the total fees payable to the clerks of the bills, the several clerks of the bills shall be entitled thenceforth to receive from the collector of the fee fund the annual salaries under mentioned, payable quarterly; viz., for every principal clerk of the bills, not being also a principal clerk of session, six hundred pounds; for every principal clerk of the bills, being also a principal clerk of session, three hundred pounds; and for each of the depute clerks of the bills, four hundred and fifty pounds; and the said clerks shall be thereafter entitled to no fee or other emolument whatsoever, but the whole fees now legally exigible by the said clerks shall thenceforth be paid over on the first Monday of every month to the collector of the fee fund, conformably to an account thereof to be delivered to him, signed by one or other of the said depute clerks, and to the verity of which the said depute clerk shall make oath, if required.

S. 8 *in part rep.* 1 *&* 2 *Vict. c.* 118, *s.* 9.

9. Qualification of Principal Clerk of Teinds—Certain Clerks not to practise as Advocates or Agents.—No person shall be capable to be appointed principal clerk of the commissioners for teinds, except a person legally qualified to be appointed a principal clerk of session; and no principal or depute clerk of the bills, to be hereafter appointed, shall after his appointment practise as an advocate or agent before the Court of Session, under pain of deprivation of office; nor shall any person henceforth to be appointed clerk to the commission of teinds practise as an advocate or agent before the commission of teinds, under pain of the like penalty.

10. Regulation of Proceedings in the Teind Court.—[*Recital*] It shall and may be lawful for the Court of Session, as commissioners for plantation of kirks and valuation of teinds, to pass any Act or Acts of sederunt from time to time, regulating the form and manner of proceedings in all processes of augmentation and locality that may come before them, in such manner as they may see proper and expedient for the dispatch of business, and for bringing such processes to a final conclusion: Provided always, that copies of all such Acts of sederunt shall be transmitted by the president of the Court of

Session to his Majesty's secretary of state for the home department, to be by him laid before both Houses of Parliament at or immediately after the commencement of the ensuing session; and no such Act or Acts of sederunt shall become in force or receive effect, until the expiration of three calendar months after the first day of the meeting of such session of Parliament.

11. Provisions as to certain Brieves and Services.—[*Recital*] In all cases in which it is now lawful and competent to grant commission by authority of the Court of Session to the said macers [1] for proceeding in any service, and in which the brief issued from Chancery is thereupon directed to the macers, such commission shall be granted, and such brief issued, according to similar forms, to the sheriff depute of Edinburgh, or his substitute, as sheriff in that part specially constituted, whether such service may relate to lands and heritages situated in or beyond the sheriffdom of Edinburgh, or in several sheriffdoms; and in all cases of competition of brieves, as well as where a party claiming right to appear and oppose a service shall make such appearance, either party may apply for and obtain advocation of the brieves to the Court of Session, not only from any inferior judge, but also from the said sheriff of Edinburgh acting under special commission; and the lord ordinary, before whom the letters of advocation shall be called, shall advocate the brief, and remit to the fifth or junior permanent lord ordinary for the time to be judge in the said service, without prejudice, nevertheless, to the power of the court, whether on declinature or any other cause shown, to remit to any other ordinary to be judge in any service; and every such service, whether before the lord ordinary on advocation, or before the sheriff of Edinburgh on special commission, shall proceed in the same place, form, and manner (unless in so far as the same may hereafter be otherwise regulated in manner herein-after authorized) as services have heretofore proceeded before the macers, except that the said sheriff shall not be required to take any oath de fideli administratione as in the case of the macers; . . . and the Court of Session is hereby empowered, by any Act or Acts of sederunt, to make such rules and regulations as may be deemed expedient for altering and amending the form and manner of issuing of brieves and executing the same, and of conducting the procedure in such services; and for every such service deduced before the said sheriff on commission, he shall be entitled to a fee of five guineas on every service in lands, whereof the valued rent is upwards of two thousand pounds Scots, and in every service of a peer, and of two guineas in every other service.

[1] i.e. *the macers of the Court of Session.*

S. 11 *in part rep.* 53 & 54 *Vict. c.* 33 (*S.L.R.*).

12. Writers to the Signet to be Clerks to such Services, &c.—It shall not be lawful to any person to be clerk to any such service before the lord ordinary on advocation, or before the sheriff of Edinburgh on commission, unless he be a writer to the signet; and the clerk to every service whatsoever of a retourable brieve shall, along with the verdict, deliver or cause to be delivered into Chancery, to be preserved subject to the orders of the lord clerk register, the original claim of service, minutes of the proceedings, and depositions of the witnesses; and no retour of any service shall be issued without such previous delivery.

13. Provision for contingent Expences incurred under authority of the Court.—And whereas expences are occasionally incurred under the authority of the court in making up reports for the information and by order of the Houses of Parliament, as well as in other matters connected with the administration of justice, for the payment of which no fund has been hitherto provided: Be it enacted, that the net amount of all such charges shall from time to time be paid on the order of the barons of Exchequer, on an account of the same being presented to them, certified under the signature of the lord president of the College of Justice, out of the monies charged by certain Acts made in the seventh and tenth years of the reign of her Majesty Queen Anne, with the fees, salaries, and other charges allowed or to be allowed for keeping up the courts of Session, Justiciary, and Exchequer.

14. Payment of Fees heretofore exigible by Keepers of the Inner House Rolls and Clerks of the Judges.—None of the said keepers or clerks shall thenceforth be entitled to any fee or other emolument whatsoever; but the whole fees now legally exigible by them shall be received by them respectively, and paid over on the first Monday of every month to the collector of the fee fund, conformably to signed accounts

to be delivered to him, and to the verity of which they shall make oath, if required by the accountant of the fee fund: Provided always, that it shall be lawful to the court, by any Act or Acts of sederunt (which they are hereby empowered to make for that purpose), to authorize and direct any other mode of collection of the said fees, or of any part thereof, which may be deemed more expedient, so as the whole of such fees may in the most easy and convenient manner be paid over to the collector of the said fund.

S. 14, *so far as relates to the salaries of the keepers of the inner house rolls and the clerks of the judges, rep.* 53 & 54 *Vict. c.* 33 (*S.L.R.*).

[*S.* **15** *rep.* 1 & 2 *Vict. c.* 118, *s.* 16.]

16. Duties of Keeper of the Outer House Rolls to be performed by Clerks of eight Judges, &c.—After the death or resignation of the present keeper of the outer house rolls, the duties of that office shall be performed by the clerks of the eight judges who are not permanent ordinaries, according to a weekly rotation to be established among them by the direction or with the approbation of the court; and the fees now legally exigible by the said keeper shall thereafter be received by them each in his turn, and paid over weekly to the collector of the fee fund, to whom a printed copy of the rolls of the week shall at the same time be delivered for the satisfaction of the accountant; and the said collector shall from time to time thereafter defray the necessary expence of paper and printing for the said rolls, according to accounts thereof to be duly certified by any two or more of the said clerks.

[*S.* **17** *rep.* 36 & 37 *Vict. c.* 91 (*S.L.R.*).]

18. Duplicates for the Record, and Abbreviates of Adjudications, to be signed by the Extractors.—The duplicates of all decreets for the record, and also all abbreviates of decreets of adjudication, which have been heretofore signed, in compliance with the Act of Regulations in the year one thousand six hundred and ninety five, by the lords ordinary pronouncing decree, as well as those abbreviates of decreets of adjudication which have been heretofore signed, in compliance with an Act of sederunt in the year one thousand seven hundred and ninety-three, by the principal clerks of session, shall, from and after the twentieth day of June in this present year, be authenticated by the signature of the extractors respectively by whom the decreets shall be prepared and signed.

[*Ss.* **19–21** *rep.* 36 & 37 *Vict. c.* 91 (*S.L.R.*).]

22. Keeper of Judicial Records and Principal Clerks' Assistants to be Members of the College of Justice.—The keeper of the judicial records of the Court of Session and the six assistants of the principal clerks of session for the time shall, in virtue of their respective appointments, be members of the College of Justice.

23. Acts of Sederunt may be made with regard to unextracted Processes.—[*Recital of* 50 *Geo.* 3, *c.* 112, *and* 55 *Geo.* 3, *c.* 70] The said court shall be empowered by Act or Acts of sederunt from time to time to make such regulations with regard to the disposal and arrangement of processes remaining unextracted whether final decree may or may not have been pronounced therein, as shall be deemed fit and expedient; and to order and direct, if they shall see fit, that all extractable processes shall be extracted in such form and manner as may seem expedient, and to make provision for payment out of the fee fund of the charge, at the ordinary rate for copying, for making the record copies of such decreets as the parties may not require to be extracted; and to make regulations with regard to the manner and the person by whom extracts of decreets shall be authenticated after the transmission of processes to the keeper of the records, and also with regard to the manner and the person by whom extracts shall be authenticated of all registered deeds and probative writings, charters, precepts, and instruments whatsoever issued after the transmission thereof to the general register house; all which orders and regulations shall be valid and effectual; anything in the said two Acts contained to the contrary notwithstanding: Provided always, that copies of all such Acts of sederunt shall be transmitted by the president of the Court of Session to his Majesty's secretary of state for the home department, to be by him laid before both Houses of Parliament at or immediately after the commencement of the ensuing session; and no

such Act or Acts of sederunt shall become in force or receive effect until the expiration of three calendar months after the first day of the meeting of such session of Parliament.

24. Copies for Appeals, &c. may be certified by one of the Principal Clerks or their Assistants.—The copies of printed papers and interlocutors and minutes of the court, appointed by the said Act passed in the fiftieth year of his said late Majesty's reign to be received in evidence when an appeal is taken to the House of Lords, and the authenticated copies of proceedings in any cause which the assistants of the principal clerks of session are by the said Act required to furnish, shall and may be certified by the signature either of one of the said clerks, or of one of the said assistants, for whom the principal clerk shall be responsible.

25. Fee for comparing Copies for Appeals; and for preparing Bonds granted by Purchasers of Estates judicially sold.—The fee payable to the said assistants for comparing the said copies of printed papers shall be four-pence for each printed page and no more: Provided always, that the said fee shall in no one case, of whatever length the said copies may be, exceed ten pounds in the whole: And provided also, that the said fee is exclusive of the ordinary charge of copying interlocutors and minutes, according to the rate for copying paid at the time in the Court of Session; and the fee payable to the said assistants for preparing bonds granted by the purchasers of estates judicially sold for the prices thereof shall be one-half of the fee which would be payable to a professional agent for similar bonds on occasion of a voluntary sale, and no more.

26. Keepers of the Register of Deeds, &c. to be appointed by the Lord Clerk Register -Authentication of Extracts of such Deeds, &c.—The principal and assistant keepers of the register of deeds, probative writings, and instruments of protest, recorded in the books of council and session, shall be under the immediate control and direction of the lord clerk register and his deputy for the time, in the performance of the duties of their offices; and whenever a vacancy shall arise in any of the said offices, the same shall be supplied by the nomination of the lord clerk register, and every such nomination shall be forthwith reported to the court; and the extracts or office copies of all such deeds, probative writings, and instruments of protest, before the transmission thereof to the general register house, shall be authenticated by the subscription of one or other of the said keepers, in the same manner and to the same effect as such extracts have heretofore been authenticated by the signature of a principal clerk of session.

27. Indexes of certain Records to be formed.—And whereas it is expedient that the keepers of the several registers of records of seisins, reversions, abbreviates of adjudications, inhibitions, and deeds, and probative writs recorded in the books of council and session, should form alphabetical indexes of the persons and matters to which those records relate, for the purposes of easy reference to the same respectively: Be it enacted, that it shall and may be lawful for the Court of Session, by any Act or Acts of sederunt, from time to time to regulate the form and manner in which such indexes shall be formed and rendered accessible to the public, and to provide such remuneration for the persons who shall be employed to form the same as may be just and suitable, by the imposition of a fee on the registry of the writings to which the said indexes shall bear reference, not exceeding one fourth part of the ordinary charge paid for copying at the time in the Court of Session: Provided always, that copies of all such Acts of sederunt shall be transmitted by the president of the Court of Session to his Majesty's secretary of state for the home department, to be by him laid before both Houses of Parliament at or immediately after the commencement of the ensuing session; and no such Act or Acts of sederunt shall become in force or receive effect until the expiration of three calendar months after the first day of the meeting of such session of Parliament.

28. Fees and Salaries of Macers.—The fees upon services heretofore payable to the macers shall be abolished from and after the twentieth day of June in this present year; and the fees heretofore collected and accounted for to them by the clerks of the bills and by the keeper of the outer house rolls shall be thereafter accounted for and paid over weekly to the collector of the fee fund; and the said collector shall retain those fees which have heretofore been received by him on account of the macers, and paid by him to them; and the other fees now legally exigible by the said macers, or any of them, shall remain so exigible, and shall, along with all gratuities receivable by them or any of them, in their capacity of macers, form a common fund of division among the whole seven macers of the court, including the one by hereditary right or his deputy,

instead of being as heretofore exclusively divisible among four of their number; and the fees now legally exigible by the two macers of the Court of Teinds (being also macers of the Court of Session) shall in like manner form a common fund of division among the whole seven macers, who shall all equally be liable to perform the duties of macers without distinction, whether in the Court of Session, Court of Teinds, or elsewhere; and the salaries now payable to the said macers, of ten pounds each to four of their number, shall, from and after the said twentieth day of June in this present year, cease and determine; and the said seven macers shall thereafter receive a salary of one hundred and twenty pounds each, payable in the same manner and at the same times in which salaries of one hundred and twenty pounds each are now paid and payable to three of their number; the salaries herein provided for them being in lieu and stead thereof.

29. Remuneration of the Collector of the Fee Fund; who shall be a Member of the College of Justice.—The remuneration of the collector of the fee fund, including the expence which may become necessary of a clerk or assistant, shall, from and after the twentieth day of June in this present year, be fixed at the rate of four pounds per centum on the whole sums received by him, until such sums shall amount to eleven thousand pounds sterling, in each year, with the addition of a rate of two pounds per centum on the further sums received by him in such year beyond eleven thousand pounds sterling, and that in lieu and stead of the remuneration fixed by the said Act passed in the fiftieth year of his said late Majesty's reign: Provided always, that in case in any year the said remuneration at the rate aforesaid shall fall short of six hundred pounds, the said collector shall in such year be entitled to retain the full sum of six hundred pounds as the allowance for his trouble and for the expence aforesaid; and every person filling the said office shall, in virtue of his appointment, be a member of the College of Justice.

30. Disposal of balance of Fee Fund, and supply of deficiency therein.—Any balance remaining in the hands of the collector on the twentieth day of December in any year shall be disposed of in manner described by the said Act passed in the fiftieth year of his Majesty's reign; and in case of the insufficiency of the said fund at any time for the payment of the sums which the said collector is required to pay, the deficiency shall be supplied in the manner now practised in pursuance of the said Act.

31. Fees may be diminished or abolished by the Court, and afterwards restored.—In case it shall at any time appear that the fees by which the said fund is created produce annually a sum materially exceeding the amount required, it shall be competent to the said court to diminish the amount of or altogether to abolish any of the said fees; anything in this or any other Act to the contrary notwithstanding: Provided always, that if by any diminution or abolition the fund shall become insufficient for the legal demands upon it, the said court shall restore the said fees in whole or in part, so as to keep the fund as nearly as may be equal to the burthens thereon: Provided further, that a copy of every order or Act of sederunt to be made by the said court, diminishing the amount of the said fees or abolishing any of the same, or restoring such fees, shall be transmitted by the president of the Court of Session to his Majesty's secretary of state for the home department, who shall cause a copy of the same to be laid before each House of Parliament at or immediately after the commencement of the then next session thereof; and upon the expiration of three calendar months after the first day of such session, but not sooner, every such fee shall become diminished, or be abolished, or be restored, in the same manner as if the same had been diminished or abolished or restored by authority of Parliament.

32. Regulation of Office of Auditor of the Court of Session.—[*Recital*] The office of auditor of accounts shall hereafter be and remain a permanent office in the Court of Session, and the person at present filling the said office shall continue to hold the same ad vitam aut culpam, with power nevertheless to his Majesty to appoint another auditor of accounts, so that there may be an auditor of accounts for each division, whenever it shall be certified to his Majesty, by the lord president of the Court of Session and the lord justice clerk, that in the opinion of the court the due dispatch of the business of the said office shall require that there shall be two such auditors, every such auditor being a fit and proper person, who shall have practised for not less than three years as a writer to the signet or as a member of the incorporation of solicitors before the supreme courts in Scotland; and every person filling the said office shall, in virtue

of his appointment, be a member of the College of Justice, and shall hold the same ad vitam aut culpam; and upon every vacancy in the said office by death, resignation, or otherwise, it shall be lawful to his Majesty to nominate and appoint a fit and proper person, of the description aforesaid, to supply such vacancy; and no person holding the said office shall under pain of deprivation of office practise either directly or indirectly as an agent before the said Court of Session: Provided always, that in the event that two auditors of accounts shall be appointed, it shall and may be lawful for the Court of Session, and such court is hereby empowered, by an Act or Acts of sederunt, to regulate the manner in which the business of the said office shall be performed by the said two auditors, and the manner in which the fees granted by the said recited Act shall be divided between them, anything in the said recited Act to the contrary notwithstanding: Provided further, that a copy of every such Act of sederunt shall be transmitted by the president of the Court of Session to his Majesty's secretary of state for the home department, who shall cause a copy thereof to be laid before each House of Parliament at or immediately after the commencement of the then next session; and upon the expiration of three calendar months after the first day of such session, but not sooner, such Act of sederunt shall become in force in the same manner as if the regulations prescribed therein had been made by the authority of Parliament: Provided nevertheless, that in case the auditor shall be unable to discharge the duties of the said office by reason of temporary indisposition or absence, it shall and may be lawful for the said court to appoint a fit and proper person, though continuing to practise as an agent before that court, to discharge the duties of such auditor during the period of such temporary indisposition or absence.

33. Account of Expences in cases of Decrees in Absence, &c.— . . . In all cases in which decree is pronounced in absence of the defender or defenders, an account of expences shall be lodged in process, and taxed by the auditor; and a report thereon by the auditor shall be a sufficient warrant and authority to the extractor to fill up the amount of expences to be awarded against the defender or defenders in the extracted decree, without the said report being brought under the consideration of the lord ordinary, unless by his own direction, or that of the auditor, or on the motion of any party interested; and for the taxing of all such accounts, in cases of decrees in absence, the auditor shall be entitled to charge a fee of five shillings, and no more, when the amount of the account shall not exceed the sum of ten pounds sterling; and when the amount of the account shall exceed that sum, he shall be entitled to charge according to the rates of fees specified and contained in the schedule annexed to the aforesaid statute passed in the fiftieth year of the reign of his late Majesty.

S. 33 *in part rep.* 53 & 54 *Vict. c.* 33 (*S.L.R.*).

[*Ss.* **34, 35** *rep.* 36 & 37 *Vict. c.* 91 (*S.L.R.*).]

CHAPTER XLI.

The Steam Engine Furnaces Act, 1821 (*Short Titles Act*, 1896).

An Act for giving greater Facility in the Prosecution and Abatement of Nuisances arising from Furnaces used and in the working of Steam Engines. [28th May 1821.]

Whereas great inconvenience has arisen, and a great degree of injury has been and is now sustained by his Majesty's subjects, in various parts of the United Empire, from the improper construction as well as from the negligent use of furnaces employed in the working of engines by steam: And whereas by law every such nuisance, being of a public nature, is abateable as such by indictment; but the expence attending the prosecution thereof has deterred parties suffering thereby from seeking the remedy given by law:

1. Court may award Costs in case of Conviction on Indictment for Nuisance from Furnaces of Steam Engines.—It shall and may be lawful for the court, by which judgment ought to be pronounced in case of conviction on any such indictment, to award such costs as shall be deemed proper and reasonable to the prosecutor or prosecutors, to be paid by the party or parties so convicted as aforesaid; such award to be made either before or at the time of pronouncing final judgment, as to the court may seem fit.

2. COURT MAY MAKE ORDER FOR PREVENTING THE NUISANCE IN FUTURE.—If it shall appear to the court by which judgment ought to be pronounced in case of conviction on any such indictment, that the grievance may be remedied by altering the construction of the furnace so employed in the working of engines by steam, it shall be lawful to the court, without the consent of the prosecutor, to make such order touching the premises, as shall be by the said court thought expedient for preventing the nuisance in future, before passing final sentence upon the defendant or defendants so convicted.

3. THIS ACT NOT TO EXTEND TO OWNERS OF FURNACES OF STEAM ENGINES ERECTED SOLELY FOR WORKING MINES, &c.—Provided always, that the provisions of this Act, as far as they relate to the payment of costs and the alteration of furnaces, shall not extend or be construed to extend to the owners or proprietors or occupiers of any furnaces of steam engines erected solely for the purpose of working mines of different descriptions, or employed solely in the smelting of ores and minerals, or in the manufacturing of the produce of such ores or minerals on or immediately adjoining the premises where they are raised.

[*S.* **4** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

CHAPTER LXXIX.

THE WHITE HERRING FISHERY (SCOTLAND) ACT, 1821 (*Short Titles Act*, 1896).

AN ACT to repeal certain Bounties granted for the Encouragement of the Deep Sea British White Herring Fishery, and to make further Regulations relating to the said Fishery.[1] [2d July 1821.]

[1] *Rep.* 30 *&* 31 *Vict. c.* 52, *s.* 9, *in so far as necessary to give effect to the provisions of that Act.*

[*Preamble recites* 48 *Geo.* 3, *c.* 110, *and* 55 *Geo.* 3, *c.* 94.]

[*Ss.* **1, 2** *rep.* 31 *&* 32 *Vict. c.* 45.]

3. COMMISSIONERS FOR THE BRITISH HERRING FISHERY MAY MAKE REGULATIONS FOR CARRYING INTO EXECUTION THE ACTS RELATING TO THE FISHERY.—It shall be lawful for the commissioners for the British white herring fishery from time to time to make such rules and regulations, directing by what means and methods the provisions of the Acts herein recited and now in force, or of this Act, or of any Act hereafter to be made relating to the said fishery, shall be observed, performed, and put in execution, and the purposes thereof duly answered and fulfilled, as to the said commissioners shall seem fitting and expedient; and all such rules and regulations shall be as valid and effectual as if the same were set forth in this Act, and shall be obeyed and carried into execution by the officers of the British herring fishery, and all other persons concerned; . . . . .

S. 3 *in part rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).

[*S.* **4** *rep.* 31 *&* 32 *Vict. c.* 45.]

5. IF ANY PERSON BUYING OR RECEIVING FRESH HERRINGS SHALL MAKE USE OF OR HAVE IN HIS POSSESSION ANY CRAN OR MEASURE OF GREATER CONTENT THAN REQUIRED BY THE REGULATIONS OF THE COMMISSIONERS, HE SHALL FORFEIT THE SAME, AND L.10, &c.—[*Recital of* 55 *Geo.* 3, *c.* 94, *s.* 13] If any person buying or receiving fresh herrings shall, for the purpose of ascertaining the quantity thereof, make use of or shall have in his possession any cran or measure which, whether the same shall or shall not be branded with such marks or characters as is required by the above recited Act, shall be of greater content or capacity than is or shall be required by the rules or regulations of the said commissioners of the British herring fishery, every such person making use of or having in his possession any such cran or measure shall forfeit the same, and also the sum of ten pounds, to be recovered and applied in the same manner as the like forfeitures are directed to be recovered and applied by the last recited Act; and the commissioners for the British herring fishery shall cause the said cran or measure to be burnt.

[*Ss.* **6–8** *rep.* 31 *&* 32 *Vict. c.* 45; *s.* **9** *rep.* 50 *&* 51 *Vict. c.* 59 (*S.L.R.*).]

CHAPTER LXXXVIII.

THE RESCUE ACT, 1821 (*Short Titles Act*, 1896).

AN ACT for the Amendment of the Law of Rescue. [10th July 1821.]

[*Preamble.*]

1. PUNISHMENT OF PERSONS RESCUING PERSONS CHARGED WITH FELONY.—If any person shall rescue, or aid and assist in rescuing, from the lawful custody of any constable, officer, headborough, or other person whomsoever, any person charged with or suspected of or committed for any felony or on suspicion thereof, then if the person or persons so offending shall be convicted of felony and be entitled to the benefit of clergy and be liable to be imprisoned for any term not exceeding one year, it shall be lawful for the court, by or before whom any such person or persons shall be convicted, to order and direct, in case it shall think fit, that such person or persons, instead of being so fined and imprisoned as aforesaid, shall be transported beyond the seas for seven years, or be imprisoned only, or be imprisoned and kept to hard labour in the common gaol, house of correction, or penitentiary house, for any term not less than one and not exceeding three years.

2. PUNISHMENT OF PERSONS ASSAULTING CONSTABLES TO PREVENT THE APPREHENSION OR DETAINER OF THEMSELVES OR OTHER PERSONS CHARGED WITH FELONY.—If any person shall assault, beat, or wound any constable, officer, headborough, or other person whomsoever, with intent in so doing, or by means thereof, to obstruct, resist, or prevent the lawful apprehension or detainer of any person charged with or suspected of felony; or if any person charged with or suspected of felony shall assault, beat, or wound any constable, officer, headborough, or other person whomsoever, with intent in so doing or by means thereof, to obstruct, resist, or prevent his or her apprehension or detainer; then and in every or any such case, if the person or persons so offending shall be convicted of a misdemeanor only, it shall be lawful for the court, by or before whom any such person or persons shall be so convicted as aforesaid, to order and direct, in case it shall think fit, that such person or persons shall, in addition to any other pains, penalties, or punishment, to which he, she, or they are now subject or liable, be kept to hard labour for any term not exceeding two years, and not less than six months.

[*S.* **3** *rep.* 50 *&* 51 *Vict. c.* 59 (*S.L.R.*).]

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3 GEORGE 4, 1822.

CHAPTER XXXIII.

THE RIOTOUS ASSEMBLIES (SCOTLAND) ACT, 1822 (*Short Titles Act*, 1896).

AN ACT for altering and amending several Acts passed in the First and Ninth Years of the Reign of King George the First, and in the Forty-first, Fifty-second, Fifty-sixth, and Fifty-seventh Years of the Reign of His late Majesty King George the Third, so far as the same relate to the Recovery of Damages committed by riotous and tumultuous Assemblies and unlawful and malicious Offenders. [24th May 1822.]

[*Preamble rep.* 50 *&* 51 *Vict. c* 59 (*S.L.R.*); *ss.* **1–9** *rep.* 7 *&* 8 *Geo.* 4, *c.* 27, *s.* 1.]

10. RECOVERY OF COMPENSATION FOR DAMAGE DONE TO CHURCHES, HOUSES, &C. BY RIOTOUS ASSEMBLIES IN SCOTLAND.—[*Recital*] In every case where any damage or injury shall be done to any church, chapel, or building for religious worship, or to any house, shop, or other building whatsoever, or any fixtures attached thereto, or any furniture, goods, or commodities therein, by the act or acts of any unlawful, riotous, or tumultuous assembly of persons, or by the act or acts of any person or persons engaged in or making part of such unlawful, riotous, or tumultuous assembly, the party injured or damnified

thereby shall be entitled to recover full compensation for the loss or injury, by summary action against the town clerk of the city or burgh within which the loss or injury shall have been sustained, or the clerk of supply of the county or stewartry wherein the loss or injury shall have been sustained, if the same shall not have been within any city or burgh; which action shall and may be brought before the justices of the peace acting in execution of an Act passed in the thirty-ninth and fortieth years of the reign of his late Majesty King George the Third, intituled "An Act for the more easy and "expeditious recovery of small debts, and determining small causes in that part of Great "Britain called Scotland," subject to all the provisions of the said Act, where the sum claimed shall not exceed five pounds, and shall and may be brought before the judge ordinary where the amount claimed shall exceed that sum.

11. Proceedings after Decree, and mode of Assessment for payment of Compensation.—It shall and may be lawful for the pursuer of any such action in Scotland, so soon as he or she shall have obtained a final decree therein, to lodge an extract thereof with the clerk of supply of the county or stewartry, or with the town clerk of the city or burgh, as the case may be; and the said clerk of supply or town clerk shall intimate the same forthwith to the convener of the commissioners of supply, or acting chief magistrate respectively, and the said convener or acting chief magistrate is hereby authorized and required to summon a meeting of the commissioners of supply of the county or stewartry, or of the magistrates of the city or burgh, as the case may be, to be holden within six calendar months after receiving intimation as aforesaid, who are hereby authorized and required so to meet, and to make an assessment for the payment of every sum so decreed for in manner following; that is to say, by the commissioners of supply so assembled, upon the land, according to the valued rent thereof, and upon the houses situated therein, not being within any city or burgh, according to the actual or real rent of such houses, to be paid by the occupiers of such land and houses respectively, so that for every shilling levied in respect of such valued rent there shall be levied one penny for and in respect of such actual rent of such houses; and in any city or burgh wherein any such assessment shall be required, the same shall be made by the magistrates so assembled upon the actual or real rent of houses within the same, to be paid by the occupier thereof according to a per-centage to such amount as shall be necessary to pay every such sum so decreed for.

12. Expence and Mode of collecting Assessment.—It shall and may be lawful for such magistrates and such commissioners of supply as aforesaid respectively to add to the amount of every such assessment such sum of poundage as shall be usually paid at the time to the collector of the cess in such county or stewartry, or in such city or burgh, for and in respect of their respective collections; and every assessment so made shall be forthwith collected therefrom, and by means thereof every such claim of damage or injury, according to the amount thereof decerned for as aforesaid, shall be paid by the collector, as soon as conveniently may be, to the person or persons entitled thereto; and if any such assessment shall not be paid by any person liable therein within six days after the same shall have been demanded by such collector, the same shall and may be recovered by a poinding and sale of the goods and effects of the defaulter, upon the warrant of any two justices of the peace of the county or stewartry or any two of the magistrates of the city or burgh wherein the same may be, upon the oath of the collector, who is hereby authorized, upon such warrant, to cause so much of the goods and effects as may be necessary to be apprized and sold within ten days after the date of every such warrant; and after paying the amount of such assessment, with the expences attending such poinding and sale, such collector shall account for the overplus, if any be, to the owner or owners of such goods or effects.

13. Provision in case of omission or neglect.—In case any clerk of supply, town clerk, convener, chief magistrate, commissioners of supply, or magistrates, or any collector shall omit or neglect to do what is herein required of such persons respectively, it shall and may be lawful for any party aggrieved to apply by summary complaint to the Court of Session, which court is hereby directed in such case to do therein as to such court shall seem just.

14. Persons who may recover in the case of a Church.—In the case of any such damage or injury done to any church, chapel, or building for religious worship in Scotland, every such compensation shall and may be recovered in the name of the clergyman or minister officiating therein.

15. Time within which Action shall be commenced.—Every action for any claim of damage under this Act in Scotland shall be commenced within one calendar month after the damage shall have been done or injury suffered, otherwise the person claiming such damage shall not be entitled to relief under this Act.

16. Act not to extend to Ireland.—Nothing in this Act contained shall extend or be construed to extend to that part of the United Kingdom called Ireland.

[*S.* **17** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

CHAPTER XLIX.

The Sheriffs of Edinburgh and Lanark Act, 1822 (*Short Titles Act,* 1896).

An Act concerning the Residence of Sheriffs Depute of the Counties of Edinburgh and Lanark. [1st July 1822.]

[*Preamble.*]

1. Sheriff Depute of Edinburgh to reside there, or within six miles thereof, and Sheriff Depute of Lanark to reside in Glasgow, or within six miles thereof, nine months every year.—Every person holding the office of sheriff depute of the county of Edinburgh shall reside personally within the city of Edinburgh, or within a a distance therefrom not exceeding six miles, during the space of nine months at least in every year; and in like manner every person holding the office of sheriff depute of the county of Lanark shall reside personally within the city of Glasgow, or within a distance therefrom not exceeding six miles, during the space of nine months at least in every year; declaring that if either of the said sheriff deputes shall not so reside, such sheriff depute being convicted of such offence, upon a summary trial before the Court of Session, at the suit of his Majesty's advocate, or at the suit of any four or more of the freeholders entitled to vote in elections of members to serve in Parliament for such county, shall be deprived of his office.

[*S.* **2** *rep.* 53 *&* 54 *Vict. c.* 33 (*S.L.R.*).]

CHAPTER LII.

The Illicit Distillation (Scotland) Act, 1822 (*Short Titles Act,* 1896).

An Act . . . for better preventing private Distillation in Scotland. . . . . [5th July 1822.]

Title in part rep. 53 *&* 54 *Vict. c.* 51 (*S.L.R.*).

[*Preamble.*]

[*S.* **1–107** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

108. Licences to Chemists, &c. to specify certain particulars—Chemists, &c. not to use any Still of greater capacity than 50 gallons, under Penalty of L.200—Penalty for using Stills without Licence, or in any other than the licensed place, &c., L.100.—Every licence granted to any person or persons in Scotland, who shall carry on the trade or business of a chemist, or any other trade or business requiring the use of any still or stills (except that of a distiller, rectifier, or compounder of spirits), shall specify the name or names, trade and business of the person or persons thereby licensed, and the place where such trade or business is intended to be carried on, and the number of stills so licensed, if more than one, and the capacity or contents of every such still respectively; and no chemist or other person or persons (except as aforesaid) shall use or have in his, her, or their custody or possession, in any part of Scotland, any still or stills of any greater capacity or content than that of fifty gallons English wine measure, upon pain of forfeiting the sum of two hundred pounds for every such still; and if any such chemist or other person or persons (distillers, rectifiers, and compounders excepted) shall use any still or stills for any purpose whatever, without first taking out such licence for the same, or shall make use of any other still or stills than such as

shall be specified in such licence, or shall make use of any such licensed still or stills at any place other than the place which shall be specified in the said licence, or in any house or place other than his, her, or their usual dwelling or known place of carrying on his, her, or their trade and business, every such person or persons shall for every such offence respectively forfeit and lose the sum of one hundred pounds..

109. Licences for Stills of greater capacity than 50 gallons may be granted to carry on Chemical Experiments, &c.—Provided always, that if it shall be made appear to the satisfaction of the commissioners of excise in Scotland, that any useful processes or experiments in chemistry in any part of Scotland shall require a still or stills of greater content or capacity than that of fifty gallons English wine measure as aforesaid, it shall and may be lawful to and for the said commissioners of excise to grant or authorize and direct a licence to be granted to the owner or owners of such chemical work or works, to use for the purposes aforesaid a still or stills of larger content or capacity than as aforesaid; and that it shall and may be lawful for any officer or officers of excise, at all hours in the day-time, to visit such work or works and such still or stills belonging to any person or persons licensed under the authority of this Act, and to examine by all proper means the liquor or matter coming from the said still or stills, but not to open the said still or stills, unless the said officer or officers shall not otherwise be allowed to examine the liquor or matter coming from the said still or stills; and if any such still or stills shall at any time be used or employed for the purpose of distilling wort, wash, low wines, or spirits, contrary to the true intent and meaning of this Act, such still or stills and all utensils belonging thereto shall be forfeited, and shall and may be seized by any officer or officers of excise, and the owners and users thereof shall be subject and liable to all the pains and penalties made and provided by this Act against persons working with unlicensed stills.

110. Still Makers to allow Officers to examine their Workshops, &c.; and to give notice to the Officers of Excise, that Stills may be gauged and stamped, on Penalty of L.50.—Before any person in Scotland shall make any still, such person shall take out a licence for that purpose as before mentioned, and shall permit and allow any officer or officers of excise, at all hours in the day-time, to enter any workhouse, shop, or other place made use of by such person for making or keeping stills, and to inspect and examine the same; and all stills which shall be used by any person or persons so licensed, shall be made of copper only, and not of any other metal; and every such maker or makers of stills shall stamp his, her, or their name or names, and the progressive number, and the content or capacity of every still made by him, her, or them, upon the shoulder of every such still; and in order that the content of the said still or stills may be distinctly ascertained, the said maker or makers shall, and he, she, and they is and are hereby required, within three days after finishing any still, to give notice to the proper supervisor or officer of the district or division where such still hath been so made, that the same is ready to be gauged and stamped; and such supervisor or officer is hereby required, within three days after such notification, to gauge such still, and to grant a certificate, specifying the progressive number, content, and maker's name of such still; and in case any such maker or makers shall not take out such licence as aforesaid, or shall make any still of any metal other than copper, or shall neglect to give such notice to the supervisor or officer as aforesaid, or shall in any respect offend in any of the particulars aforesaid, such maker or makers shall for each and every such offence forfeit and lose the sum of fifty pounds.

S. 110 *rep., so far as it relates to licences to makers of stills,* 36 & 37 *Vict. c* 91 (*S.L.R.*).

111. Persons importing Stills into Scotland shall give Notice to the Officers, who shall gauge and stamp the same.—If any person or persons shall import or bring any still or stills into Scotland from England or Ireland or from foreign parts, such person or persons shall, within three days after the arrival of such still or stills, give notice of the same and of the place where the same is deposited, to the proper supervisor or officer of the district or division; and such supervisor or officer shall, within three days after the receipt of such notice, gauge and cause to be stamped the said still or stills, in the same manner as herein-before directed in the case of a still or stills being made in Scotland; and if any person, who shall so import or bring any still or stills into Scotland, shall neglect or omit to give such notice thereof as aforesaid, such person such forfeit and lose the sum of fifty pounds for every still so imported or brought.

112. Stills found in the custody of any person, without having been gauged and marked, shall be forfeited, with Penalty of L.200.—In case any still or stills shall be erected and made use of, or be found in the custody or possession of any person or persons in Scotland, without having been previously gauged by the proper officer of excise and marked in the manner herein-before mentioned, every such still shall be forfeited, and shall and may be seized by any officer or officers of excise, and the owner and owners thereof shall also forfeit and pay the sum of two hundred pounds, over and besides all other penalties and forfeitures imposed by this Act for the unlawful using the same.

113. If any Officer know of or suspect any Private Still, &c. and make Oath thereof before a Justice, such Justice may grant a special Warrant to break open the suspected place and to seize such Still, &c.; and the same, if not claimed within ten days, shall be forfeited, and the Proprietor shall pay L.200 for every such place, and every Still, &c. found therein—Penalty for obstructing Officers in seizing Private Stills, &c., L.200.—In case any officer or officers of excise shall know or have cause to suspect that any private or concealed still, or any back, vat, cooler, or other vessel, or any spirits, low wines, wort, or wash, or other materials preparing or prepared for distillation, are set up or kept in any house or place by any person not licensed under this Act, then and in such case, upon oath made by such officer or officers before one or more justice or justices of the peace of the county, city, or place where such officer or officers shall suspect the same to be set up and kept, setting forth the ground of such his or their suspicion, it shall and may be lawful to and for the justice or justices before whom such oath shall be made, if he or they shall judge it reasonable, by special warrant under his or their hands and seals, to authorize and empower such officer or officers, by day or by night, to break open the doors or any part of such house or place where he or they shall so know or suspect that such private or concealed still, back, vat, cooler, or other vessel, spirits, low wines, wort, wash, or materials for distillation, are so set up or kept, and to enter into such house or place, and to seize all and every such stills, backs, vats, coolers, and other vessels, and all such spirits, low wines, wort, wash, and other materials preparing or prepared for distillation, which shall be there found and discovered, and either to detain and keep the same in the house or place where found, or to remove the same to the office of excise next to the place where the same shall be so discovered and found; and in case the same shall not within ten days next after such seizure be claimed by some person as the true and lawful owner thereof, then the said stills, backs, vats, coolers, and other vessels, spirits, low wines, wash, and other materials for distillation, shall be absolutely forfeited; and the proprietor of any such private or concealed still, back, vat, cooler, or other vessel, or the person in whose custody the same shall be found, shall forfeit and lose for every place in which every such private still, back, vat, cooler, or other vessel, shall be so found, and also for every such still, back, vat, cooler, and vessel found therein, the sum of two hundred pounds; and if any person or persons shall obstruct, oppose, molest, or hinder any officer or officers of excise, or others acting in their assistance, in the seizing any such private or concealed stills, backs, vats, coolers, or other vessels, or spirits, low wines, wort, wash, or other materials for distillation, or in detaining or keeping the same in the place where found, or in removing the same or any of them, after seizure, to the next office of excise as aforesaid, then and in every such case every person so offending shall forfeit the sum of two hundred pounds.

114. Officers of Excise may search for and seize private Stills, &c. without a Warrant from Justices, and Proprietors, &c. shall be subject to the same Penalties as if the Officers had such Warrant.—Provided always, that nothing herein contained shall extend, or be deemed or construed to extend, to make it unlawful for any officer or officers of excise to search for and discover any private or concealed still, back, or other vessel, for the making, preparing, or keeping of wort, wash, low wines, or spirits, or other materials preparing or prepared for distillation in any part of Scotland, without such warrant as aforesaid, or from seizing every such still, back, or other vessel, and all such low wines, spirits, wort, wash, and other materials preparing or prepared for distillation, which he or they shall so find and discover, or to do therewith in the same manner as aforesaid; and every such person with whom the same shall be found, or who shall obstruct any such officer or officers, or shall otherwise offend in any of the particulars aforesaid, shall be subject and liable to the same penalties and forfeitures

as if such officer or officers had been authorized by such warrant as aforesaid; anything herein-before contained to the contrary in anywise notwithstanding.

115. Persons not being entered Distillers, Brewers, or Vinegar Makers, having Wash exceeding 20 gallons, or any quantity of Low Wines or Feints in their possession, to forfeit L.100, &c.—Restriction as to mitigation of Penalty—Committal for non-payment of Penalty.—And whereas wort or wash and other materials fit and proper for distillation are often found in the custody and possession of persons notoriously concerned in private and illicit distillation, and such offenders frequently escape from the penalties of the law by the removal and concealment of their still or stills: For remedy whereof be it enacted, that all and every person and persons in Scotland, not being a licensed distiller, brewer, or vinegar maker, in whose possession any quantity of wort or wash, fermenting or fermented, exceeding the quantity of twenty gallons, or any quantity whatever of low wines or feints shall be found, shall severally forfeit and lose the sum of one hundred pounds, and all such wort or wash, low wines or feints, together with the cask or vessels containing the same, shall and may be seized by any officer or officers of excise; which said penalty of one hundred pounds it shall not be lawful for any justice or justices of the peace in Scotland, by or before whom such person or persons shall be convicted, under any pretence whatsoever, to mitigate or lessen under twenty pounds; and if the penalty adjudged against such person or persons be not forthwith paid down to the prosecutor, or to the person authorized by him to receive the same, such justice or justices of the peace, by or before whom such person or persons shall be convicted, are hereby authorized and strictly enjoined and required immediately, by his or their warrant under his or their hands, to commit such offender and offenders to the gaol or prison of the county, for any time not exceeding twelve months, nor less than six months, unless such penalty shall be sooner paid.

116. Any person found aiding and assisting in any Private Distillery shall forfeit L.30; and may be carried before a Justice for Conviction—Committal for non-payment of Penalty—Penalty on a second Offence, L.60 and Committal for one year in case of non-payment.—When any officer or officers of excise in Scotland shall at any time discover and find any private or concealed still, back, or vessel for the making, preparing, or keeping of wash, low wines, or spirits, or other materials preparing or prepared for distillation, and shall at the same time discover in the room or place, where such private still, back, or other vessel shall be so found, any person or persons knowingly aiding, assisting, or anywise concerned in carrying on such private distillation, every such person and persons so discovered shall (over and above all other penalties and forfeitures to which the proprietor or person, in whose custody or possession the same shall be found, is subject and liable) forfeit and lose the sum of thirty pounds each, for and in respect of every such offence; and it shall and may be lawful for the officer and officers of excise and all other persons acting in their aid and assistance to stop, arrest, and detain all and every the person and persons so discovered in such room or place, and to convey the said person or persons before one or more justice or justices of the peace of the county, city, or place respectively, wherein any such person or persons shall be so discovered as aforesaid; and it shall and may be lawful to and for such justice or justices of the peace respectively, on confession of the party, or by proof on the oath of one or more credible witness or witnesses made of such offence, to convict the person or persons so discovered as aforesaid; and the person or persons so convicted shall immediately on such conviction severally pay the sum of thirty pounds into the hands of the officer who shall have conveyed such offender before such justice or justices of the peace, to be applied in manner as herein-after is directed; and if any such offender shall refuse or neglect to pay the said sum of thirty pounds, the justice or justices so convicting as aforesaid shall and may, by warrant or warrants under his or their hand and seal or hands and seals, commit the offender to the gaol or prison of the county, there to remain for the space of six calendar months, and any person so committed shall not be discharged until he or she shall have paid the said sum of thirty pounds, or until the expiration of the said six months; and in case any person so convicted shall be again discovered in any room or place where any private still, back, or other vessel shall be discovered and found as aforesaid, aiding, assisting, or otherwise concerned in carrying on any private distillery, he or she so again offending shall, upon the like conviction, forfeit and pay for such second offence the sum of sixty pounds, and shall be committed

to the gaol or prison in manner aforesaid, there to remain for and during the term of one year, unless the said sum of sixty pounds shall be sooner paid.

117. Persons in whose premises Private Distilleries are carried on with their knowledge, shall be fined not exceeding L.100 nor less than L.20—Committal for non-payment of Fine.—[*Recital*] In every case where sufficient proof shall not be adduced to convict the party of having been actually employed or concerned in such private distillation, it shall be lawful to offer proof, and for the court before whom the case shall be heard to receive proof, that the private distillery was carried on in some part of the house, outhouses, yards, gardens, lands, or premises belonging to or in the occupation of the party accused, and that from the situation of the place or other circumstances such private distillation was or must have been carried on with the knowledge and privity of the party accused; and in such case it shall be lawful for such court to fine the party in any sum not exceeding one hundred pounds nor less than twenty pounds, and, in case the fine be not immediately paid, to commit the party to the gaol or prison of the county for any time not exceeding twelve months, nor less than six calendar months, unless the fine be sooner paid.

118. Officers may spill and destroy all Spirits, Materials, and Utensils found at unlawful Distilleries.—[*Recital*] When any officer or officers of excise shall find or discover any unlawful distillery in any part of Scotland, it shall and may be lawful to and for such officer or officers, at his or their discretion, immediately upon the discovery of such private or unlawful distillery and the seizure of any spirits or materials, implements or utensils for distillation, effectually to spill, break up, and destroy the same, any thing herein-before contained to the contrary in any wise notwithstanding.

119. No Distiller, &c. in Scotland shall send out or receive any British Spirits exceeding the quantity of two gallons, nor shall any person carry the same without a Permit, on pain of forfeiting L.200.—If any distiller of or dealer in spirits or other person in Scotland, licensed or not licensed, shall sell or send out or shall knowingly suffer to be sent out of his or her stock, custody, or possession, or shall receive or knowingly suffer to be received into his or her stock, custody, or possession, or shall suffer any other person, for his or her use or account, to receive at one time any quantity of British spirits exceeding the quantity of two gallons, without the same being accompanied with a true and lawful permit; or if any carrier, boatman, or other person in Scotland shall knowingly carry, remove, or transport, or by means of his horse, cart, vessel, boat, or other conveyance shall knowingly suffer to be carried, removed, or transported, or shall be aiding or assisting in carrying, removing, or transporting from any part of Scotland to another part thereof, any quantity of British spirits at one time exceeding the quantity of two gallons, without being accompanied with a true and lawful permit; every such distiller, dealer, carrier, boatman, or other person whatsoever shall, for each and every such offence, forfeit and lose the sum of two hundred pounds, over and above every other penalty and forfeiture to which he or she is or may be liable by virtue of this Act.

120. Proof of Permit, when a Suit, &c. is commenced for receiving British Spirits without a Permit.—When any suit or action shall be commenced or any information filed or exhibited against any person receiving such British spirits, unaccompanied with a true and lawful permit, for the recovery of any penalty or forfeiture in such case by this Act imposed, it shall be sufficient for the defendant or defendants to prove that a lawful permit to accompany the removal of such spirits was duly obtained by the party selling or sending out the same, and that there had been a corresponding decrease of the stock of the seller or sender out thereof, to answer the quantity of such spirits so sent out and removed; and upon such proof being made, such spirits shall be adjudged to have been legally received, and according to the true intent and meaning of this Act: Provided always, that where any person receiving such spirits (not being an entered distiller, rectifier, or compounder of or dealer in or retailer of spirits) shall, within ten days from the receipt thereof, send or deliver to the nearest officer of excise the permit which actually accompanied the same, every such private person so delivering the permit as aforesaid shall be held and deemed to have complied with the provisions of this Act in respect to the receiving of such spirits.

121. Treasury may authorize Commissioners of Excise to reward Officers for detecting and preventing Illicit Distillation.—It shall and may be lawful for the

Treasury, by any warrant, order, or instruction, to authorize and empower the commissioners of excise in Scotland for the time being, by any order or warrant, signed by any three or more of them, to grant such rewards to officers, to be paid out of the duties of excise in Scotland, for services performed by them in detecting and preventing illicit and fraudulent distillation, as the Treasury shall think proper, subject to such rules, conditions, directions, and modifications as the Treasury shall prescribe, in order to make it the interest of such excise officers that no illicit or fraudulent distillation whatever shall be carried on within their respective districts or divisions.

122. Penalty on Distiller, &c. obstructing Officers under this Act, in cases not otherwise provided for, L.200.—If any distiller, rectifier, or compounder of spirits licensed under this Act, or any workman or servant belonging to or employed or authorized by such distiller, rectifier, or compounder, or any other person or persons whosoever, shall molest, disturb, hinder, oppose, or impede any officer or officers of excise in the due execution of the powers and authorities by this Act granted, or any of them, except in such cases for which any penalties are by this Act specially provided, every such distiller, rectifier, or compounder, or other person or persons so offending shall forfeit and lose the sum of two hundred pounds.

[*S.* **123** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

124. Recovery and Application of Penalties.—All fines, penalties, and forfeitures imposed by this Act, for the recovering and levying whereof no directions are expressly given by any clause or clauses in this Act before contained, shall be sued for, recovered, levied, or mitigated, by such ways, means, and methods, as any fine, penalty, or forfeiture may be sued for, recovered, levied, or mitigated by any law or laws of excise, or by action of debt, bill, plaint, or information in the Court of Exchequer in Scotland; and one moiety of every such fine, penalty, or forfeiture shall be to his Majesty, and the other moiety to him or them who shall inform, discover, or sue for the same.

125. Powers of 12 Cha. 2, c. 24, or any Law now in force relating to the Excise shall extend to the purposes of this Act.—All and every the powers, directions, rules, penalties, forfeitures, clauses, matters, and things, which in and by an Act made in the twelfth year of the reign of King Charles the Second, intituled "An Act "for taking away the court of wards and liveries and tenures in capite and by knights "service and purveyance, and for settling a revenue upon his Majesty in lieu thereof," or by any other law now in force relating to his Majesty's revenue of excise, are provided and established, shall be practised, used, and put in execution in and for the purposes of this Act, as fully and effectually to all intents and purposes, as if all and every the said powers, rules, directions, penalties, forfeitures, clauses, matters, and things were particularly repeated and re-enacted in this present Act.

126. Persons sued for Penalties under this Act not to be liable to Penalties under former Acts, and vice versa.—Provided always, that no person who shall be sued or prosecuted for any of the penalties or forfeitures imposed by this Act shall be liable to any penalty or forfeiture imposed for the same offence by any former Act; nor shall any person, who shall be sued or prosecuted for any penalty or forfeiture imposed by any former Act, be liable to any penalty or forfeiture imposed for the same offence by this present Act.

[*Ss.* **127, 128** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

CHAPTER XCI.

The Royal Burghs (Scotland) Act, 1822 (*Short Titles Act*, 1896).

An Act for regulating the Mode of accounting for the Common Good and Revenues of the Royal Burghs of Scotland. [29th July 1822.]

[*Preamble.*]

1. Accounts of the Common Good and Revenues of the Royal Burghs, specifying the Particulars herein mentioned, shall be stated annually—Accounts to be certified by the Provost, &c. in the Form herein set forth.—A particular account

of the common good and revenues of every royal burgh of Scotland, made up to the day preceding the general annual election of magistrates in each burgh, shall be annually stated and deposited in the manner directed by this Act; which account shall be so made out as to exhibit a complete state, showing the common good of each burgh classed under different heads, specifying as well the amount of the debt or debts owing by each burgh, as the property thereof; also the amount of each branch of revenue, distinguishing how much thereof shall have been received, and how much thereof shall be in arrear or remaining unpaid at the date of such account; also the amount of all sums received, or loans contracted for, annuities granted, and sums received in consideration thereof, or on sale or alienation of property, distinguishing the same from the ordinary revenue; and also showing every sum paid, and every sum remaining unpaid for or by reason of any expence incurred during the year for which such account shall be so made out; distinguishing the fixed or ordinary from the casual or incidental expenditure; and also showing all cautionary obligations, positive or conditional, incurred by or on account of such burgh, distinguishing such as shall have been incurred during the year; and every such account shall be certified by the provost or acting chief magistrate of the burgh for that year, in words or to the effect following:

'I provost [or, as the case may be, acting chief magistrate, for 'the period between the day of and the day , 'as the case may be] of the burgh of , hereby certify, that this account contains 'a true and complete state of the whole property and funds belonging to the said burgh, 'and of the debts due to and by the corporation thereof, at this date; and also a true 'and complete state of the revenue and expenditure of the said burgh, and of the 'cautionary obligations affecting the same, to the best of my knowledge and belief, 'during the year commencing on the and ending on the . 'Witness my hand this day of in the year .'

2. Penalty in case of neglect to make out and deposit Account.—If such annual account shall not be made out and deposited in the manner and at the time herein directed, the provost, magistrates, and members of the town council of any royal burgh failing or neglecting to make out and deposit such account shall severally be subject to a penalty not exceeding fifty pounds each; to be recovered, with costs of suit, upon information to the Court of Exchequer, at the suit of any three or more burgesses of such burgh; one half of which penalty shall go to the common good of the said burgh, and the other half shall go to the burgesses suing for the same, or shall be applied to such purpose as the said court shall think fit, in whole or in part, as the said court shall direct.

3. Accounts shall be deposited in Office of Town Clerk and be open to inspection of Burgesses—Complaint may be made to Barons of Exchequer, in case Objections are not explained.—Every such annual account shall be deposited in the office of the town clerk of the burgh to which it appertains, within three months after the annual election of the magistrates thereof; and such account shall remain there for thirty days after the expiration of the said three months open to the inspection of the burgesses, who may state objections thereto in writing, either during that time or within two months after the expiration of the said thirty days, and be entitled to call, in writing, for the production of any particular vouchers; and if upon such objections being made the party or parties making the same shall not be satisfied with the explanations which may or shall be thereupon given, it shall and may be lawful for any three or more burgesses of such burgh, within three calendar months after the expiration of the said thirty days, to make complaint in writing to the barons of the Court of Exchequer in Scotland, who shall proceed to determine the same in a summary manner, and to make and establish such rules and regulations, as to the said barons shall seem meet, for hearing and determining all matters that may come before them upon such complaints: Provided always, that no objection shall be stated in any such complaint that had not been previously during the time above mentioned stated in writing to the accounts, unless upon sufficient cause shown, to the satisfaction of the said barons, why such objection was not then stated.

4. Where Magistrates, &c. are Trustees for any Charity, an Account of the Funds thereof shall also be annually stated, &c.—Penalty for Neglect.—Where the magistrates and members of the town council of any burgh, or any number of them, are the sole trustees for any charity, foundation, or mortification, then and in every such case an account shall be annually stated and certified in the manner herein-before

directed, distinct from the account relative to the common good and revenues of such burgh; and such account relative to such charity, foundation, or mortification shall be deposited in the town clerk's office as aforesaid at the same time that the annual account relative to the common good of the burgh shall be deposited there, and shall be open to the inspection of the burgesses; and if such annual account relative to such charity, foundation, or mortification shall not be so stated and deposited, then the magistrates and members of the town council of such burgh, or such number of them as shall be trustees for such charity, foundation, or mortification, shall severally be subject to a penalty of fifty pounds each, to be recovered and applied as the said penalty upon any provost, magistrates, and members of the town council of any burgh neglecting to state and deposit an annual account the common good thereof in the manner herein directed, may be recovered and applied.

5. Feus or Alienations of Heritable Property of Royal Burghs shall proceed by Auction after Public Notice.—The magistrates and council of every royal burgh shall hereafter cause all feus, alienations, or tacks for more than one year of any heritable property being part of the common good of such burgh, or tacks of the common good, to proceed by public roup or auction, of which public notice shall be given by advertisement published once at least twenty days preceding the day of roup or auction, in some newspaper printed in such burgh, if any such newspaper is there printed, and if no such newspaper is there printed, then in some newspaper published in the county wherein such burgh is situated, or if no such newspaper is published in such county, then in a newspaper published in the next adjoining county or counties, in circulation in such burgh, and also by written or printed notices affixed and continued upon at least three conspicuous places in the said burgh, of which the door of the principal church shall be one, at least twenty days preceding the day of such roup or auction.

6. To be preceded by an Act of Council—Court of Exchequer may grant Injunction.—Provided always, that no such notice of feus or alienations shall be given until an Act of the town council shall be made, specifying the particulars thereof; and provided also, that such notice of sale as is herein directed in a newspaper shall be for the first time given during an Exchequer term, and at least twelve days before the end of such term, in order that the Court of Exchequer may grant an injunction, upon application made for that purpose by any three burgesses, against the proceeding to make any such feu or alienation, if it shall appear proper to the said court so to do; and which injunction the said court is hereby empowered to grant, or otherwise to do in the matter of any such application as to the said court shall seem just.

7. Collectors of Cess, &c. to specify in Receipts the purpose, &c. of each Imposition—Penalty.—In future every collector or other person employed in the collection or levying of cess, stent, or any local tax or imposition leviable within any royal burgh in Scotland, shall separately and distinctly specify in every receipt to be given for the same, for what purpose, by what authority, and at what rate, or according to what rule every such sum or imposition is demanded from the burgesses and inhabitants of such burgh, under a penalty not exceeding ten pounds for each offence; one half to be paid to the informer, and the other half to go to the common good of the burgh; to be recovered with costs of suit in the same way and manner as any penalty against any provost, magistrates, or members of the town council may be recovered by this Act.

8. Penalty in the event of Feus or Alienations being made otherwise than by Public Auction, &c.—If any feus or alienations or leases for more than one year of any part of the heritable property or tacks of the common good of any such burgh shall be made otherwise than by public roup or auction, or without such notice as aforesaid, then the provost, magistrates, and members of the council of such burgh, making, authorizing, or directing any such feus, alienations, leases, or tacks, or being otherwise instrumental therein, shall severally forfeit a sum not exceeding fifty pounds each; to be recovered and applied as the said penalty upon any provost, magistrates, or members of the town council of any burgh neglecting to state and deposit an annual account of the common good thereof, in the manner herein directed, may be recovered and applied; and it is hereby declared that all such feus, alienations, leases, or tacks made otherwise than by public roup as before directed, shall be altogether void and null, save and except in the case herein-before provided.

9. Costs of Complaints to Court of Exchequer.—In all cases in which a complaint

is allowed to be made to the Court of Exchequer under this Act, it shall and may be lawful for the said court to find and adjudge either the party or parties complaining or complained of liable in costs.

10. No Complaint to be made after a limited time.—In the event of no complaint being made to any annual account within the time herein limited, it shall not be competent thereafter to complain to such court in regard to such account.

11. No Debt to be contracted by Magistrates, &c. without a previous Act of Council.—It shall not be lawful for the magistrates or the town council of any burgh to contract any debt, grant any obligation, make any agreement, or enter into any engagement which shall have the effect of binding them or their successors in office, unless an Act of council shall have been previously made in that behalf; and any such contract, obligation, agreement, or engagement made or entered into without such Act of council shall be void and null as against the common good of the burgh, or the succeeding magistrates or town council thereof, without prejudice nevertheless to the personal liability and responsibility of the persons by whom the same may have been made or entered into.

12. Penalties and Expences of Magistrates, &c. not to be paid from the Common Good—Recognizances for Costs to be entered into by Parties complaining, &c.—Any penalties and expences in which any magistrates or members of the town council of any royal burgh may be personally subjected by virtue of this Act, or any part thereof, shall on no account be paid from or taken out of the common good or revenue of such burgh: Provided always, that the parties making any complaint or bringing any information under this Act shall, within eight days after the same shall be made or brought as aforesaid, enter into a recognizance to pay costs of suits in case the same shall be awarded.

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4 GEORGE 4, 1823.

CHAPTER XIX.

The National Debt Reduction Act, 1823 (*Short Titles Act*, 1896).

An Act for further regulating the Reduction of the National Debt. [26th March 1823.]

[*Preamble.*]

[*Ss.* **1–7** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

8. Sums given or bequeathed for Reduction of National Debt to be carried to a separate Account.—[*Recital*] A new and separate account shall be raised in the books of the commissioners for the reduction of the national debt, and in the books of the governor and company of the Bank of England, under the title of "The Account of "Donations and Bequests towards reducing the National Debt"; and the said governor and company are hereby required to cause . . . any sum or sums to be carried to the said new account, which may hereafter be given for the like purpose; and the interest or dividends, which shall accrue from time to time on all stock standing on the said account, shall be applied from time to time to the purchase of the public annuities composing the national debt, for the purpose of fulfilling the directions of the person or persons giving or bequeathing the said sums, and to no other purpose whatsoever.

S. 8 *in part rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).

[*Ss.* **9, 10** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

11. Commissioners shall prepare an Account conformable to this Act.—The said commissioners shall cause an account to be prepared, containing a statement of all sums received and applied by them towards the reduction of the national debt, in every year ending on the fifth day of January in each year.

12. Expences of National Debt Establishment to be defrayed out of Consoli-

DATED FUND.—And whereas, for the purpose of ascertaining the actual amount of the annual charge attending the national debt, it is expedient that the expence of the establishment of the said commissioners should be deemed part of the said annual charge: Be it therefore enacted, that the annual expence of the said establishment in Great Britain shall be charged upon the said consolidated fund . . . ; and the expence of the said establishment shall constitute and form part of the annual charge of the national debt of Great Britain.

S. 12 *in part rep.* 53 & 54 *Vict. c.* 33 (*S.L.R.*).

[*S.* **13** *rep.* 61 & 62 *Vict. c.* 22 (*S.L.R.*); *s.* **14** *rep.* 36 & 37 *Vict. c.* 91 (*S.L.R.*).]

CHAPTER XXXV.

THE STATUTORY COMMISSIONERS ACT, 1823 (*Short Titles Act*, 1896).

AN ACT to enable Trustees or Commissioners under Acts of Parliament to meet and carry such Acts into Execution, although they may not have met according to the Directions of such Acts. [27th June 1823.]

[*Preamble.*]

1. WHERE TRUSTEES OR COMMISSIONERS CANNOT MEET ON THE DAY APPOINTED BY THEIR ACT FOR THEIR FIRST MEETING, THE DAY BEING ANTECEDENT TO THE PASSING THEREOF, ANY THREE OF SUCH TRUSTEES, &C. MAY MEET ON THE FOURTEENTH DAY AFTER THE PASSING OF SUCH ACT.—In all cases where the trustees or commissioners appointed by any Act or Acts of Parliament have not been or shall not be able to meet on the day appointed for their first meeting by any such Act or Acts, by reason that the day appointed for such meeting has been or shall be antecedent to the passing of such Act or Acts, it shall and may lawful for three or more of the said trustees or commissioners appointed to execute such Act or Acts to meet at the place appointed by such Act or Acts for the first meeting of such trustees or commissioners on the fourteenth day after the passing of such Act or Acts; and every such meeting shall be as good, valid, and effectual, as if such trustees or commissioners had met in pursuance of the Act or Acts of Parliament which they are appointed to carry into execution.

CHAPTER LX.

THE LOTTERIES ACT, 1823 (*Short Titles Act*, 1896).

AN ACT for granting to His Majesty a Sum of Money to be raised by Lotteries. [9th July 1823.]

[*Preamble.*]

[*Ss.* **1–18** *rep.* 36 & 37 *Vict. c.* 91 (*S.L.R.*).]

19. REGULATIONS AS TO SUPPRESSION OF ILLEGAL LOTTERIES, &C. TO REMAIN IN FORCE AFTER DRAWING OF LOTTERY HEREBY AUTHORIZED.—[*Recital*] The clauses herein contained relative to the suppression of illegal lotteries and insurance therein, and to the preventing the sale and publishing proposals for the sale of foreign lottery tickets, shall remain in full force and virtue, notwithstanding other powers given by this Act may have ceased and determined; . . . . . .

S. 19 *in part rep.* 36 & 37 *Vict. c.* 91 (*S.L.R.*).

[*Ss.* **20–36** *rep.* 36 & 37 *Vict. c.* 91 (*S.L.R.*).]

37. MAGISTRATES TO ISSUE WARRANTS TO CONSTABLES FOR SEARCH OF PERSON AND PREMISES OF LOTTERY INSURERS, &C.; WHO, UPON CONVICTION, SHALL BE PUNISHED AS ROGUES AND VAGABONDS.—[*Recital*] Upon information upon oath made before any magistrate or justice of the peace, stating any person to be a reputed lottery insurer, and in the opinion of the informer to be in possession of books, papers, or memorandums of illegal contracts entered into relating to lottery insurances, it shall be lawful for and

such magistrate or justice of the peace is hereby required to issue his warrant, directed to a constable or officer of police, to empower him with proper assistance to search the person of the said reputed lottery insurer, to enter the dwelling place and premises of such person, and search for and seize all such papers, accounts, or memorandums; and if any such be found either upon such or any other person or persons in the same dwelling place, or in or about the same dwelling place or premises, or if any memorandums of insurance in the lottery or little goe should be found at the time of such search written in chalk or otherwise upon or about the dwelling place or premises, then to apprehend and bring the said person or persons against whom such warrant shall have been issued, with such person or persons upon whom such lottery or little goe insurance papers, accounts, or memorandums were found, before two magistrates or justices of the peace; and upon proof before them by two credible witnesses upon oath that such papers, accounts, or memorandums do appear to the best of their knowledge and belief to relate to any little goe or to insurance in any lottery or in any little goe, whether the same little goe or lottery shall have been actually drawn or not, or upon proof in like manner that such memorandums were written in chalk or otherwise on or about the premises of the person against whom such warrant shall have been issued, which could not be brought away without injuring the premises, such person or persons are to be deemed rogues and vagabonds, and punished as such.

[*S.* **38** *rep.* 54 *&* 55 *Vict. c.* 67 (*S.L.R.*).]

39. Information on Oath not permitted.—Upon the hearing of any case before any magistrates, where it shall be imputed that any person or persons is or are become a rogue and vagabond or rogues and vagabonds by the committing of any offence described in this Act, it shall not be permitted to produce any information upon oath, whether the same shall have been filed or not.

[*S.* **40** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

41. Punishment of persons selling Lottery Tickets, &c. other than such as are authorized.—If any person or persons shall sell any ticket or tickets, chance or chances, share or shares of any ticket or tickets, chance or chances in any lottery or lotteries authorized by any foreign potentate or state, or to be drawn in any foreign country, or in any lottery or lotteries, except such as are or shall be authorized by this or some other Act of Parliament to be sold, or shall publish any proposal or scheme for the sale of any ticket or tickets, chance or chances, share or shares of any ticket or tickets, chance or chances, except such lottery or lotteries as shall be authorized as aforesaid, . . . such person or persons shall for every such offence forfeit and pay the sum of fifty pounds, and shall also be deemed a rogue and vagabond or rogues and vagabonds, and shall be punished as such in the manner herein-after directed: . . . .

S. 41 *in part rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).

[*Ss.* **42–58** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

59. On Complaint on Oath of Offences against this Act, whereby Offenders may be liable as Rogues and Vagabonds, Justices may authorize persons to break open Houses, and apprehend Offenders, &c.—Persons discovered in such Houses concerned in carrying on Illegal Transactions, to be punished as Rogues and Vagabonds, &c.—Punishment of persons obstructing Officers, &c.—Upon complaint or information made upon oath before any justice or justices of the peace of any offence committed against this Act in any house or place within the jurisdiction of any justice or justices, whereby any of the offenders may be liable to punishment as rogues and vagabonds, it shall and may be lawful to and for the said justice or justices before whom such oath shall be taken, if he or they shall judge it reasonable, by special warrant under his or their respective hands and seals to authorize and empower any person or persons by day or by night, but, if in the night-time, then in the presence of a constable or other lawful officer of the peace, who are hereby required to be aiding or assisting therein, to break open the doors or any part of such house or place where such offence shall have been committed, and to enter into such house or place, and to seize and apprehend all such offenders, and all other persons who shall be discovered in such house or place, and who shall have knowingly aided or assisted or been anywise con-

cerned with any such offender or offenders in committing any such offence, and to convey them before any justice or justices of the peace of the county, riding, division, city, liberty, or place wherein such person shall be so apprehended, to be dealt with according to law as aforesaid; and all persons who shall be discovered in such house or place, knowingly aiding, assisting, or in anywise concerned with such offender or offenders in carrying on any transactions respecting the said lotteries, or either of them, contrary to the express provisions of this Act, shall be deemed rogues and vagabonds, and punishable as such in the manner directed by this Act, as the case may require; and it shall and may be lawful for the officer or officers having the execution of such warrant, and all other persons acting in his or their aid or assistance, to stop, arrest, and detain all and every the person and persons so discovered in such house or place, and to convey the said person or persons before such justice or justices of the peace as aforesaid; and if any person or persons shall forcibly obstruct, oppose, molest, or hinder any such officer or officers, or others acting in his or their aid or assistance, in the due execution of their duty, or in the due entering into such house or place, or in the seizing, detaining, or conveying before such justice or justices any such offender or offenders or other person or persons as aforesaid, every such person so obstructing, opposing, molesting, or hindering as aforesaid, shall be deemed an offender against law and the public peace, and the court before whom any such offender shall be tried and convicted shall and may order such offender to be fined, imprisoned, and publicly whipped, as in their discretion shall be thought fit.

60. Recital of former Lottery Acts and 27 Geo. 3, c. 1, and 42 Geo. 3, c. 119—The word "Place" in this and recited Acts shall mean any Place whatever.—And whereas doubts have arisen whether under and by former Acts passed from time to time for granting to his Majesty a sum of money to be raised by lotteries, and the Acts commonly called "Little Goe Acts," of the twenty-seventh year of his late Majesty King George the Third, intituled "An Act to render more effectual the laws now in being for "suppressing unlawful lotteries," and of the forty-second year of his said late Majesty, intituled "An Act to suppress certain games and lotteries not authorized by law," the word "place," mentioned in the said Acts respectively, was meant to describe any place used for the purpose of drawing the illegal lottery called little goe, or for the purposes of insurance in the lottery or little goe, or in anywise relating thereto, be the same an inclosed building or not: It is therefore hereby declared and enacted, that the word "place," when and where the same is mentioned and used in this and the said several above recited Acts relating to the drawing of the said illegal lottery called little goe, or the assembling of persons for any of the illegal purposes mentioned therein, or for the purpose of little goe or lottery insurance, shall be taken to extend to and mean any place in or out of an inclosed building or premises, whether upon land or water, where such illegal practices or any thing relating thereto shall be carried on or attempted to be carried on.

61. Persons employing others in illegal Transactions shall be deemed Rogues and Vagabonds.—All persons, although not discovered in such house or place as aforesaid, who shall employ or cause to be employed any person or persons in carrying on any of the transactions mentioned as illegal in this Act, and each and every person acting as an agent in any of the said transactions or in aiding or assisting any such person or persons, shall be deemed rogues and vagabonds, and shall be punishable as such in the manner directed by this Act.

62. Application and recovery of Penalties.—All pecuniary penalties for any offence against this Act (except where it is herein otherwise directed) shall, when recovered, go and be applied to the use of his Majesty; and it shall not be lawful for any person or persons whatever, except where it is herein otherwise directed, to commence or enter, or cause or procure to be commenced or entered, or filed or prosecuted, any action, suit, bill, plaint, or information for the recovery of any pecuniary penalty or penalties inflicted by this Act, unless the same be commenced, entered, filed, and prosecuted in the name of his Majesty's attorney general in the Court of Exchequer at Westminster, if such offence shall be committed in England, or in the name of his Majesty's attorney general in the Court of Exchequer at Dublin, if such offence shall be committed in Ireland, or in the name of his Majesty's advocate general in the Court of Exchequer in Scotland, if such offence shall be committed in Scotland; and if any action, suit, bill, plaint, or information shall be commenced or entered in any other

person's name or names than as is before mentioned, the same and all proceedings thereupon had are hereby declared to be null and void; and the said court or courts where such proceedings shall be so commenced shall cause the same to be stayed, any law, custom, or usage to the contrary notwithstanding.

[*Ss.* **63–66** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

67. Offenders adjudged Rogues and Vagabonds shall be committed, &c.—Proceedings not removable by Certiorari.—If any person shall be brought before any two or more justices of the peace for the county, city, liberty, or place where any offence against this Act shall have been committed, and shall be convicted of any offence or offences against this Act by such justices, and shall be adjudged a rogue and vagabond, then and in every such case such justices shall and they are hereby required to order such offender to be sent to the house of correction, there to remain for any space of time not exceeding six calendar months nor less than one calendar month; and if such person shall have been convicted of a like offence under this or any former Act for granting to his Majesty any sum of money to be raised by lotteries, for the purpose of proof of which former conviction the entry in the book kept at each police office for that purpose shall be deemed good and sufficient evidence, then and in that case, in addition to the imprisonment and punishment last mentioned, it shall be lawful for such two or more justices as aforesaid, at their discretion, to order the offender or offenders to be privately whipped; . . . And such proceedings shall not be subject to appeal, nor shall be removed or removable by certiorari or otherwise into any court whatever.

S. 67 *in part rep.* 54 *&* 55 *Vict. c.* 67 (*S.L.R.*).

[*S.* **68** *rep.* 56 *&* 57 *Vict. c.* 61; *residue rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

CHAPTER LXXIX.

An Act for building additional Places of Worship in the Highlands and Islands of Scotland. [18th July 1823.]

Rep. 5 *Geo.* 4, *c.* 90, *s.* 1, *except so much as relates to the appointment of commissioners, and their appointment of a secretary and clerk, surveyors and other fit persons.*

[*Preamble.*]

2. His Majesty may appoint Commissioners to meet in London or Westminster.—It shall be lawful for his Majesty, by a commission under his royal sign manual, to nominate, constitute, and appoint such persons as his Majesty shall deem fit to be his commissioners for carrying into execution the purposes of this Act, and to order in such appointment that any three or more of such commissioners may act in the execution of the powers of this Act; and such commissioners are hereby directed to meet from time to time in London or Westminster, for the purposes of this Act, and at all such meetings in case of an equality of voices the chairman shall have a casting vote.

3. Commissioners may appoint a Secretary and Clerk, &c. and allow them reasonable Salaries as shall be approved by the Treasury.—And it shall and may be lawful for the said commissioners to appoint a secretary and clerk, and to employ such surveyors and other fit persons, and to do every such act, matter, and thing, as such commissioners shall deem necessary and think proper for the purpose of enabling them to execute the powers given to them by this Act, and may assign and pay to all such persons such reasonable salaries and rewards for their services as shall be approved by the Treasury.

CHAPTER LXXX.

THE LASCARS ACT, 1823 (*Short Titles Act*, 1896).

AN ACT to consolidate and amend the several Laws now in force with respect to Trade from and to Places within the Limits of the Charter of the East India Company, and to make further Provisions with respect to such Trade; . . . . . [1] [18th July 1823.]

Title in part rep. 53 & 54 *Vict. c.* 51 (*S.L.R.*)

[1] *This Act is rep., except such parts thereof as relate to Asiatic sailors, Lascars, being natives of the territories under the government of the East India Company,* 3 & 4 *Will.* 4, *c.* 93, *s.* 1.

[*Preamble.*]

[*Ss.* 1–24 *rep.* 36 & 37 *Vict. c.* 91 (*S.L.R.*). *S.* 2 *provided that trade may be carried on in British vessels with all places, except China, within East India Company's charter.*]

25. GOVERNOR OF FORT WILLIAM TO MAKE RULES, &C. WITH RESPECT TO MASTERS, &C. FOR LASCARS, &C. IN SHIPS TRADING UNDER THIS ACT.—It shall and may be lawful to and for the governor general of Fort William in Bengal in council, and he is hereby required, as soon as may be, to make, ordain, and publish, and from time to time as occasion may require to repeal and alter, and newly to make, ordain, and publish such rules and regulations to be observed by masters, officers, and owners of ships and vessels trading under the authority of this Act, the crews of which ships or vessels shall be wholly or in part composed of Asiatic sailors, Lascars, or natives of any of the territories, countries, islands, or places within the limits of the charter of the said united company,[2] for the due supply of provisions, clothing, and other necessary accommodation of such Asiatic sailors, Lascars, and natives aforesaid, whilst they shall be on board such ships or vessels, and whilst absent from the countries or places to which they shall respectively belong, and until they shall be carried back to the places to which they may belong or from whence they may have been brought, and for the conveyance back of such Asiatic sailors, Lascars, or natives as aforesaid within a reasonable time to be fixed by such rules or regulations.

[2] i.e. *the East India Company.*

26. SUCH RULES AND REGULATIONS TO BE OBSERVED IN LIKE MANNER AS IF THEY HAD FORMED PART OF THIS ACT, &C.—All such rules and regulations, until they shall be repealed or altered, shall be observed and performed according to the true intent and meaning thereof, in like manner as if they had been herein inserted and had formed part of this Act; and a copy of all and every such rules and regulations, signed and authenticated as such by the secretary for the time being of the government of Bengal, or by the secretary for the time being of the said united company, shall be deemed and received and taken in and by all courts, justices, and other persons, as full, sufficient, and conclusive evidence of such rules and regulations.

[*S.* 27 *rep.* 57 & 58 *Vict. c.* 60.]

28. PENALTY FOR BREACH OF RULES AS TO LASCARS, &C.—For every breach or non observance of any rule or regulation to be made in pursuance of this Act in relation to Asiatic sailors, Lascars, or natives aforesaid, which shall have happened or taken place, . . . the master or commander and all and every the owners and owner of the ship or vessel on board which any such Asiatic sailor, Lascar, or native aforesaid shall be or shall have been, shall forfeit the sum of ten pounds for every Asiatic sailor, Lascar, or native aforesaid in respect of whom such breach, non-observance, . . . or defect shall have happened or taken place, to be recovered against the master, commander, and owners jointly or severally by bill, plaint, information, or action in any of his Majesty's courts of record in the United Kingdom of Great Britain and Ireland, or in the East Indies or elsewhere, to be commenced in the county or presidency or place where any such offender may happen to be, or by conviction in a summary way before two justices of the peace in the United Kingdom or in the East Indies, of the county or presidency where any such offender may happen to be; and of which sum and sums so to be forfeited one third part thereof shall go belong, and be paid to the person or

persons who shall inform or sue for the same, and the other two third parts thereof shall be paid to such person or persons as the court or justices before whom the same shall be recovered shall award, to be applied in payment or reimbursement of any expence which may have been incurred by or for the use of the Asiatic sailor, Lascar, or native aforesaid, or the respective Asiatic sailors, Lascars, or natives aforesaid, in respect of whom such forfeiture or forfeitures shall have been recovered, or in such other manner, for his or their maintenance, return home, or benefit, as the court or justices before whom the same shall be recovered shall direct.

S. 28 *in part rep.* 57 & 58 *Vict. c.* 60.

[*Ss.* **29, 30** *rep.* 54 & 55 *Vict. c.* 67 (*S.L.R.*).]

31. LASCARS, &C. CONVICTED OF VAGRANCY TO BE SHIPPED ON BOARD OF A VESSEL BOUND TO THE PLACE FROM WHENCE THEY WERE BROUGHT.—[*Recital*] If any Asiatic sailor, Lascar, or native aforesaid shall at any time be convicted of an act of vagrancy under any of the laws in force in the United Kingdom respecting vagrants, it shall and may be lawful to and for the justice or justices or magistrates, before whom such conviction shall take place, to order and direct that he shall be shipped on board any ship or vessel bound to the place, or as near as may be to the place, to which he shall belong, or from which he shall have been brought, and the commander of which shall be willing to take charge of him in order to his being returned thereto, at the expence of the person or persons liable under any rule or regulation to be made as before mentioned, or of any other person being otherwise willing to defray the same; and it shall and may be lawful for the commander of any such ship or vessel having taken charge of such vagrant, and he is hereby required, to keep and detain him on board his ship for the voyage for which he shall be shipped.

32. PROCEEDINGS NOT TO BE QUASHED FOR WANT OF FORM, &C.—Provided also, that no conviction, order, or proceeding, to be made or had by or before any justices of the peace or other magistrate by virtue of this Act, shall be quashed or vacated for want of form; and that the order of such justices or other magistrates shall be final, and that no proceedings of any such justices or other magistrates in pursuance of this Act shall be removable by certiorari or otherwise.

[*S.* **33** *rep.* 56 & 57 *Vict. c.* 61; *s.* **34** *rep.* 57 & 58 *Vict. c.* 60.]

CHAPTER XCVII.

THE COMMISSARY COURTS (SCOTLAND) ACT, 1823 (*Short Titles Act*, 1896).

AN ACT for the Regulation of the Court of the Commissaries of Edinburgh; and for altering and regulating the Jurisdiction of Inferior Commissaries in Scotland. [19th July 1823.]

[*Whole Act, except ss.* **5, 13,** *rep.* 53 & 54 *Vict. c.* 33 (*S.L.R.*).]

5. OFFICE OF PRINCIPAL CLERK SHALL BE ABOLISHED; AND TWO CLERKS SHALL BE HEREAFTER APPOINTED.—The office of principal clerk of the said court of the commissaries of Edinburgh shall be and the same is hereby abolished, and there shall only be two clerks of the said court entitled to receive fees; the one to be appointed by his Majesty, and who shall perform the duties of his office in person; the other to be named by the clerk so appointed, as his deputy during his pleasure, and for whom he shall be responsible.

13. WHERE COURTS ARE AT PRESENT HELD, THE CLERK OR HIGHEST SALARIED CLERK SHALL BECOME THE COMMISSARY CLERK FOR THE COMMISSARIAT HEREBY ESTABLISHED, AND MAY NAME A DEPUTY, &C.—In counties wherein a commissary court is at present held, the clerk of such court shall become the commissary clerk for commissariat hereby established in such county, with power to such commissary clerk to name a deputy to act for him so long as he shall hold the said office, and for whom he shall be responsible; and in any county where more than one of such courts is at present held, the commissary clerk whose emoluments shall amount to the highest annual sum, as set forth in the report of the said commissioners in that behalf herein-before recited, shall become the commissary clerk for the commissariat hereby established in such county with power to name a deputy as aforesaid.

CHAPTER XCVIII.

THE CONFIRMATION OF EXECUTORS (SCOTLAND) ACT, 1823 (*Short Titles Act*, 1896).

AN ACT for the better granting of Confirmations in Scotland. [19th July 1823.]

[*Preamble.*]

1. RIGHT TO CONFIRMATION TO TRANSMIT TO REPRESENTATIVES OF NEXT OF KIN OF INTESTATE DYING BEFORE CONFIRMATION.—In all cases the intestate succession, where any person or persons who, at the period of the death of the intestate, being next of kin, shall die before confirmation be expede, the right of such next of kin shall transmit to his or her representatives, so that confirmation may and shall be granted to such representatives, in the same manner as confirmations might have been granted to such next of kin immediately upon the death of such intestate.

2. CAUTION NOT TO BE REQUIRED FROM EXECUTORS NOMINATE; AND AMOUNT THEREOF IN OTHER CASES TO BE FIXED BY COURT.—Caution shall not be required to be found by executors nominate; and in all other cases the court granting confirmation shall fix the amount of the sum for which caution shall be found by the person or persons to whom confirmation shall be granted, not exceeding the amount confirmed.

3. CONFIRMATIONS TO BE OF THE WHOLE MOVEABLE ESTATE OF DECEASED.—Every person requiring confirmation shall confirm the whole moveable estate of a deceased person known at the time, to which such person shall make oath: Provided always, that it shall and may be lawful to eik to such confirmation any part of such estate that may afterwards be discovered, provided the whole of such estate so discovered shall be added, upon oath as aforesaid: Provided nevertheless, that nothing herein contained shall affect or alter the provision made with respect to special assignations by an Act of the Scottish Parliament made in the year one thousand six hundred and ninety, intituled "Act anent "the confirmation of testaments."

4. CONFIRMATION BY EXECUTOR'S CREDITOR MAY BE LIMITED TO AMOUNT OF DEBT.—Provided further, that in the case of confirmation by executor's creditor, such confirmation may be limited to the amount of the debt and sum confirmed to which such creditor shall make oath: Provided always, that notice of every application for confirmation by any executor's creditor shall be inserted in the Edinburgh Gazette, at least once, immediately after such application shall be made; in evidence whereof a copy of the Gazette, in which such notice shall have been inserted, shall be produced in court before any such confirmation shall be further proceeded in.

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5 GEORGE 4, 1824.

CHAPTER LXIV.

THE FISHERIES ACT, 1824 (*Short Titles Act*, 1896).

AN ACT to amend the several Acts for the Encouragement and Improvement of the British and Irish Fisheries.[1] [17th June 1824.]

[1] *The whole Act is rep.* 30 & 31 *Vict. c.* 52, *s.* 9, *in so far as necessary to give effect to the provisions of that Act.*

[*Preamble.*]

[*Ss.* **1–8** *rep.* 31 & 32 *Vict. c.* 45, *s.* 71.]

9. SUMS NOT EXCEEDING L.3,000 ANNUALLY ALLOWED UNDER 48 GEO. 3, C. 110, FOR ENCOURAGEMENT OF SCOTCH FISHERIES, AND NOT EXCEEDING L.5,000 ANNUALLY ALLOWED UNDER 59 GEO. 3, C. 109, FOR IRISH FISHERIES, SHALL IN FUTURE BE APPLIED TOWARDS BUILDING PIERS AND QUAYS IN SCOTLAND AND IRELAND, AND REPAIR-

ING BOATS OF POOR FISHERMEN.—And whereas by the herein-before recited Act of the forty-eighth year of the reign of his late Majesty King George the Third, for the further encouragement and better regulation of the British white herring fishery, the commissioners for the herring fishery to be appointed pursuant to the said Act are authorized to allow premiums or bounties not exceeding the sum of three thousand pounds in the whole in any one year, for the encouraging the herring fisheries on the sea coasts of Scotland: And whereas by the herein-before recited Act of the fifty-ninth year of the reign of his said late Majesty, for the further encouragement and improvement of the Irish fisheries, the lord lieutenant is authorized to direct any sum or sums of money not exceeding the sum of five thousand pounds in any one year, to be paid to the commissioners of the Irish fisheries, for the encouragement of the coast fisheries of Ireland, under the regulations in the said recited Act respectively contained: And whereas it is expedient that such sums, not exceeding three thousand pounds and five thousand pounds respectively, should in future be applied in manner herein-after mentioned: Be it therefore enacted, that the said several sums, not exceeding three thousand pounds and five thousand pounds respectively, shall be applied and employed by the commissioners of the said fisheries respectively, in the encouraging and assisting the building, making, or repairing of piers or quays at such ports and places on the sea coasts of Scotland and Ireland respectively as shall appear to the said commissioners of the fisheries respectively to be most fit and necessary, and not for any other purpose whatever; except only in providing materials for the repair of the boats of poor fishermen at such ports or places where piers or quays are or shall be built, not exceeding the amount of five hundred pounds in any one year in Scotland and Ireland respectively; anything in the said recited Acts to the contrary notwithstanding: Provided always, that no part of such respective sums shall be granted or allowed to any person or persons by the said commissioners respectively for the purpose of making or building or repairing of any such pier or quay, except in such cases where the said commissioners shall be satisfied that not less than one-fourth part of the expences of building, making, or repairing of any such pier or quay respectively hath been advanced and paid and expended by such person or persons.

10. REGULATIONS FOR ISSUING SUCH SUMS IN SCOTLAND AND IRELAND RESPECTIVELY.—All such sums shall be allowed in Scotland by the commissioners of the herring fishery, under such rules and regulations as the said commissioners shall make and publish in that behalf, by and with the approbation of the Treasury; and a list of the names of the persons entitled to any such sums, the place of residence of each of the said persons, the situation of the pier or quay which shall be in part made, built, or repaired by any such person respectively, and the sums of money paid and expended by such persons respectively, and the sum of money assigned to each person respectively by the said commissioners shall be made and certified by the said commissioners of the said fisheries from time to time, and at such time as shall be directed and required by the Treasury; and it shall be lawful for the Treasury, and they are hereby authorized and required, to cause the said sums to be paid by the commissioners of excise, at such times and in such manner, and under such regulations as the Treasury shall from time to time think proper and expedient; and the Treasury shall cause an account of all such sums to be laid before both Houses of Parliament, within fourteen days after the commencement of every session; and in Ireland all such sums shall be issued under the directions of the lord lieutenant of Ireland; and the commissioners of the Irish fisheries shall report the application thereof, and a copy of such report shall be laid before Parliament, in such and the like manner as is required and directed by the said recited Act of the fifty-ninth year of the reign of his late Majesty King George the Third, for the further encouragement and improvement of the Irish fisheries.

CHAPTER LXXII.

THE TEINDS ACT, 1824 (*Short Titles Act*, 1896).

AN ACT for amending and rendering more effectual an Act for augmenting Parochial Stipends in certain Cases in Scotland. [17th June 1824.]

[*Preamble recites* 50 *Geo.* 3, *c.* 84, *ss.* 2, 3, 10.]

1. ACCOUNTS OF PARISHES, THE STIPENDS OF WHICH DO NOT EXTEND TO THE YEARLY VALUE OF L.150, AND WHICH CANNOT BE AUGMENTED UNDER PRESENT LAWS, TO BE MADE ONCE IN EVERY FIVE YEARS BY THE CLERKS OF THE PRESBYTERIES, AND TRANSMITTED TO THE TEIND CLERK, TO BE CONSIDERED BY THE COMMISSIONERS OF TEINDS, WHO SHALL DIRECT THE STIPENDS TO BE AUGMENTED—PRECEPTS SHALL ISSUE FOR PAYMENT OF THE SUMS NECESSARY TO AUGMENT THEM TO L.150.—From time to time once in five years, at the expiration of each successive five years in all time hereafter, the clerks to the different presbyteries within Scotland shall make out accounts, in the manner directed by the said recited Act, of the different parishes within each presbytery, the stipends of which parishes do not at the time extend in their yearly amount or value to the sum of one hundred and fifty pounds sterling, and which cannot be augmented to that extent under the laws at present or to be then in force, by reason of the causes mentioned in the said recited Act, which accounts shall specify the amount of each such stipend in money, grain, or other articles, according to an average of the last five years preceding the date of making out the same respectively, and the said accounts shall be transmitted to the teind clerk, or principal clerk of the lords of council and session, as commissioners for plantation of kirks and valuation of teinds, who shall thereupon proceed in the manner directed by the said recited Act to take the same into consideration and to adjust and settle the same; and so soon as the said lords of council and session, as commissioners aforesaid, shall have adjusted and settled any such list or schedule, or shall have ascertained the sum necessary for augmenting each such stipend, in the manner directed by the said recited Act, as often as the same is required to be done by this Act, to the annual amount or value of one hundred and fifty pounds, the said lords of council and session, as commissioners aforesaid, shall cause a list or schedule or lists or schedules to be made out in the manner directed by the said recited Act, specifying the sum necessary for augmenting each such stipend to the annual sum of one hundred and fifty pounds, and every such list or schedule shall be recorded and transmitted in the manner directed by the said recited Act; and the said barons of Exchequer shall issue their precept or warrant, addressed to his Majesty's said receiver general and paymaster for Scotland, to each of the ministers mentioned in any list or schedule made up under the authority of this Act, for payment to such minister of the annual sum which according to such list or schedule shall appear to be necessary for augmenting his stipend to the annual amount or value of one hundred and fifty pounds, to be paid him during his incumbency, and to his successor, at the terms or times and in the manner directed by the said recited Act, unless and until an alteration shall take place in the manner hereinafter directed.

2. LISTS OF PARISHES WHERE THERE IS NO MANSE OR GLEBE AND THE STIPEND IS UNDER THE YEARLY VALUE OF L.200 TO BE MADE UP AND TRANSMITTED IN LIKE MANNER.—[*Recital*] As soon as conveniently may be after the passing of this Act the clerks to the different presbyteries within Scotland shall make up a list or lists of any parish or parishes within each presbytery the minister whereof is without a manse and glebe, and of any parish or parishes the minister whereof is without a manse, and of any parish or parishes the minister whereof is without a glebe, the stipend of any which minister shall be under the amount or value of two hundred pounds per annum; and every such list shall be transmitted to the said teind clerk, or principal clerk to the said lords of council and session as commissioners aforesaid.

3. COMMISSIONERS OF TEINDS TO ENQUIRE INTO THE CIRCUMSTANCES OF SUCH CASES AND TO MAKE UP LISTS OR SCHEDULES OF SUCH PARISHES WHERE THE STIPENDS ARE UNDER L.200 AND CANNOT BE PROVIDED WITH MANSE OR GLEBE AND OF THE SUM WHICH OUGHT TO BE ALLOWED, &c.; PRECEPTS SHALL ISSUE FOR PAYMENT OF THE SUMS ALLOWED.—After such list shall have been received by such teind or principal clerk, it shall and may be lawful for the said lords of council and session, as commissioners aforesaid, upon the application of any of the ministers interested, or of the procurator of the church on behalf of the whole, to enquire into the circumstances of the case, and if they shall find

that the stipend in any parish is under the annual amount or value of two hundred pounds, and that the minister cannot be provided with a manse and a glebe, or with a manse or a glebe, as the case may be, they are hereby directed to cause a list or schedule of every such parish where the minister cannot be so provided to be made out, and of the sum which ought to be allowed in respect of the want thereof, as the case may be, but so as that the total amount of the stipend shall not exceed two hundred pounds per annum in any case where the minister is without both manse and glebe, or one hundred and eighty pounds where the minister is without a manse or a glebe, as the case may be, and cannot be provided with the same respectively; and every such list or schedule shall be recorded in the books of the teind court, and an extract or certified copy thereof shall be made out and transmitted to the barons of Exchequer, who shall cause the same to be also recorded in their books, and shall issue their precept and warrant, addressed to his Majesty's said receiver general and paymaster in Scotland, to the minister of the parish, or to each of the ministers of the respective parishes mentioned in such list or schedule, for payment to such minister of the annual sum which according to such list is to be paid to him in respect of the want of a manse and glebe, or the want of a manse or glebe, as the case may be, during his incumbency in the parish mentioned in such precept or warrant, at the terms and times and in the same manner as the augmented stipends settled by the said recited Act of Parliament are thereby directed to be paid to the said respective ministers entitled to the same.

4. Every five years Clerks of Presbyteries to make out Accounts of the Stipends to which Additions have been made; and when Stipends are found to be L.5 per annum less than the sum allowed, according to the average price of Grain, the Clerks shall transmit an Account of such Stipends to the Teind Clerk, that an increase may be made—Precepts shall issue for payment of Sums allowed.—[*Recital*] Once in every five years in all time hereafter, and at the expiration of five years from the date of each such transmission, the clerks to the different presbyteries in Scotland shall make out accounts of the amounts of the different stipends to which additions shall have been made, as directed by this Act; and whenever such clerks shall find any such stipend to be five pounds per annum less than the sum allowed pursuant to this Act, according to the average prices of grain in the county in which such parish shall be situated for the five years immediately preceding, the said clerks shall transmit an account of such stipends to the teind clerk, or principal clerk of the said lords of council and session, as commissioners aforesaid, who shall thereupon proceed to increase each such stipend, so as to make the sum to be thereafter allowed amount as nearly as may be to the sum allowed under this Act, according to the average prices of grain for five years preceding the date of such transmission of accounts respectively; and so soon as the said lords of council and session shall have adjusted and settled or ascertained the sum necessary so to be allowed according to such diminution, as the case may be, as often as the same is directed by this Act, the said lords of council and session shall cause a list or schedule, lists or schedules, to be made out in the manner directed by the said recited Act and this Act, specifying the sum thenceforth to be issued, until an alteration in the amount of such sum shall take place in the manner directed by this Act; and every such list or schedule shall be recorded and thereafter transmitted in the manner above directed in the case of the first allowance under this Act; and the said barons of Exchequer shall issue their precept or warrant to his Majesty's said receiver general and paymaster for Scotland, to each of the ministers mentioned in any such list or schedule, for payment to such minister of the annual sum which according to such list or schedule, is to be paid to him during his incumbency and to his successor, at the term or times and in the manner directed by the said recited Act, unless and until an alteration shall take place in the manner directed by this Act.

5. Augmentations under this Act not to exceed L.2000 in any one year.—Provided always, that the augmentations of stipends authorized to be made by this Act shall not exceed in any one year the sum of two thousand pounds sterling over and above and in addition to any balance of the sum of ten thousand pounds granted by the said recited Act, remaining unapplied for the purposes thereof.

6. Directions given by recited Act to be observed in executing this Act.—All the directions given by the said recited Act with respect to the matters and things thereby appointed to be done, shall be observed and followed in executing this Act, as far as such directions are not inconsistent with the same.

[*S.* **7** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

CHAPTER LXXXII.

THE CLERK OF PARLIAMENTS ACT, 1824 (*Short Titles Act*, 1896).

AN ACT for better regulating the Office of Clerk of the Parliaments.

[21st June 1824.]

[*Preamble rep.* 51 *&* 52 *Vict. c.* 57 (*S.L.R.*); *s.* **1** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

2. CLERK OF THE PARLIAMENTS TO BE APPOINTED BY HIS MAJESTY, AND TO EXECUTE DUTIES IN PERSON.—The clerk of the Parliaments shall be appointed by his Majesty, but such clerk of the Parliaments so appointed shall also execute the duties of the said office in person, and shall be removable by his Majesty, upon an address of the House of Lords to his Majesty for that purpose.

3. CLERK ASSISTANT, &C. TO BE APPOINTED BY THE LORD CHANCELLOR.—The nomination and appointment of the clerk assistant and other clerks officiating at the table of the House of Lords (except the clerk of the Parliaments as aforesaid) shall be vested in and exercised by the lord chancellor or speaker of the House of Lords for the time being, but subject always to the approbation of the said House of Lords, on such appointments being duly notified to the House; and such officers, when so appointed and approved, shall be removable only by order of the said House of Lords.

S. 3 *in part rep.* 51 *&* 52 *Vict. c.* 57 (*S.L.R.*).

S. **4** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

5. OTHER CLERKS TO BE APPOINTED BY CLERK OF THE PARLIAMENTS.—All the other clerks, except as aforesaid, belonging to the said office of clerk of the Parliaments; (that is to say), the clerk of the journals, copying clerk, clerk of the engrossments, clerk of the inrolments, and the writing clerks under them, shall be nominated and appointed, and removable at pleasure, by the clerk of the Parliaments for the time being executing in person the duties of the said office according to the provisions hereinbefore contained.

S. 5 *in part rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*), *and* 51 *&* 52 *Vict. c.* 57 (*S.L.R.*).

[*S.* **6** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

CHAPTER LXXXIII.

THE VAGRANCY ACT, 1824 (*Short Titles Act*, 1896).

AN ACT for the Punishment of idle and disorderly Persons, and Rogues and Vagabonds, in that Part of Great Britain called England.

[21st June 1824.]

S. 4, *with certain amendments, is extended to Scotland and Ireland,* 34 *&* 35 *Vict. c.* 112, *s.* 15.

[*S.* **3** (*persons refusing to maintain themselves and families, or leaving place to which they were removed, and unlicensed pedlars, prostitutes, and beggars shall be deemed idle and disorderly persons, and may be imprisoned for one month with hard labour*) *is applicable to England only.*]

4. PERSONS COMMITTING CERTAIN OFFENCES SHALL BE DEEMED ROGUES AND VAGABONDS AND MAY BE IMPRISONED FOR THREE MONTHS WITH HARD LABOUR.—Every person committing any of the offences herein-before mentioned, after having been convicted as an idle and disorderly person; every person pretending or professing to tell fortunes, or using any subtle craft, means, or device, by palmistry or otherwise, to deceive and impose on any of his Majesty's subjects; every person wandering abroad and lodging in any barn or out-house, or in any deserted or unoccupied building, or in the open air, or under a tent, or in any cart or waggon, not having any visible means of subsistence, and not giving a good account of himself or herself; every person wilfully exposing to view, in any street, road, highway, of public place, any obscene print, picture, or other

indecent exhibition; every person wilfully, openly, lewdly, and obscenely exposing his person in any street, road, or public highway, or in the view thereof, or in any place of public resort, with intent to insult any female; every person wandering abroad, and endeavouring by the exposure of wounds or deformities to obtain or gather alms; every person going about as a gatherer or collector of alms, or endeavouring to procure charitable contributions of any nature or kind, under any false or fraudulent pretence; every person running away and leaving his wife, or his or her child or children, chargeable, or whereby she or they or any of them shall become chargeable, to any parish, township, or place; . . . every person having in his or her custody or possession any picklock key, crow, jack, bit, or other implement, with intent feloniously to break into any dwelling house, warehouse, coach-house, stable, or outbuilding, or being armed with any gun, pistol, hanger, cutlass, bludgeon, or other offensive weapon, or having upon him or her any instrument, with intent to commit any felonious act; every person being found in or upon any dwelling house, warehouse, coach-house, stable, or outhouse, or in any inclosed yard, garden, or area, for any unlawful purpose; every suspected person or reputed thief, frequenting (or loitering about or in [1]) any river, canal, or navigable stream, dock, or basin, or any quay, wharf, or warehouse near or adjoining thereto, or any street, highway, or avenue leading thereto, or any place of public resort, or any avenue leading thereto, or any street, highway, or place adjacent, with intent to commit felony; and every person apprehended as an idle and disorderly person, and violently resisting any constable, or other peace officer so apprehending him or her, and being subsequently convicted of the offence for which he or she shall have been so apprehended; shall be deemed a rogue and vagabond, within the true intent and meaning of this Act; and it shall be lawful for any justice of the peace to commit such offender (being thereof convicted before him by the confession of such offender, or by the evidence on oath of one or more credible witness or witnesses,) to the house of correction, there to be kept to hard labour for any time not exceeding three calendar months; and every such picklock key, crow, jack, bit, and other implement, and every such gun, pistol, hanger, cutlass, bludgeon, or other offensive weapon, and every such instrument as aforesaid, shall, by the conviction of the offender, become forfeited to the King's Majesty.

S. 4 *in part rep.* 51 & 52 *Vict. c.* 57 (*S.L.R.*). [1] *Added by* 54 & 55 *Vict. c.* 69. *s.* 7.

CHAPTER LXXXIV.

THE TRANSPORTATION ACT, 1824 (*Short Titles Act*, 1896).

AN ACT for the Transportation of Offenders from Great Britain.[1]

[21st June 1824.]

[1] *See* 20 & 21 *Vict. c.* 3. *Such parts of this Act as relate to the control and management of offenders sent to be kept to hard labour at places out of England duly appointed for the purpose, rep.* 22 *Vict. c.* 25, *s.* 1.

So much of this Act as provides for the appointment of the superintendent herein mentioned, or any overseer or any assistant or deputy to such superintendent, rep. 36 & 37 *Vict. c.* 91 (*S.L.R.*).

[*Preamble.*]

[*S.* 1 *rep.* 36 & 37 *Vict. c.* 91 (*S.L.R.*).]

2. WHEN HIS MAJESTY EXTENDS MERCY TO AN OFFENDER ON CONDITION OF TRANSPORTATION, THE COURT OR JUDGE BEFORE WHOM HE WAS CONVICTED SHALL ALLOW THE BENEFIT OF A CONDITIONAL PARDON AND ORDER IMMEDIATE TRANSPORTATION.— . . . Whenever his Majesty shall be pleased to extend mercy to any offender convicted of any crime for which he or she is or shall be excluded from the benefit of clergy, upon condition of transportation beyond the seas, either for the term of life or any number of years, and such intention of mercy shall be signified by one of his Majesty's principal secretaries of state to the court before which such offender hath been or shall be convicted, or any subsequent court with the like authority, such court shall allow to such offender the benefit of a conditional pardon, and make an order for the immediate transportation of such offender; and in case such intention of mercy shall be so signified to

the judge or justice before whom such offender hath been or shall be convicted, or to any judge of his Majesty's Court of King's Bench in England, such judge shall allow to such offender the benefit of a conditional pardon, and make an order for the immediate transportation of such offender, in the same manner as if such intention of mercy had been signified to the court during the term or session in or at which such offender was convicted; and such allowance and order shall be considered as an allowance and order made by the court before which such offender was convicted, and shall be entered on the records of the same court by the proper officer thereof, and shall be as effectual to all intents and purposes and have the same consequences as if such allowance and order had been made by the same court during the continuance thereof; and every such order, and also every order made by the Court of Justiciary in Scotland for the transportation of any offender whose sentence of death shall be remitted by his Majesty, shall subject the offender to be conveyed beyond the seas under the provisions of this Act.

S. 2 *in part rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).

3. His Majesty may appoint Places of Transportation—Secretary of State to order removal of Offenders and authorize persons to contract for their Transportation, &c.—It shall be lawful for his Majesty, by and with the advice of his privy council, from time to time to appoint any place or places beyond the seas, either within or without his Majesty's dominions, to which felons and other offenders under sentence or order of transportation or banishment shall be conveyed; and when any offenders shall be about to be transported or banished from Great Britain, one of his Majesty's principal secretaries of state shall give orders for their removal to the ship to be employed for their transportation, and shall authorize and empower some person to make a contract for their effectual transportation to some of the places so appointed, and shall direct security to be given for their effectual transportation, in the manner herein-after mentioned.

4. Sheriffs or Gaolers, on receiving orders for removal of Offenders for Transportation, shall deliver them over to the Contractor, if free from Infectious Disease, with certain Documents.—The sheriff or gaoler receiving such order of removal shall by virtue thereof forthwith remove every offender to whom the same shall apply, and who, having been examined by an experienced surgeon or apothecary, shall appear to be free from any putrid or infectious distemper, and fit to be transported to the ship employed for his or her transportation, and there deliver every such offender to the contractor, together with a true copy, attested by such sheriff or gaoler, of the caption and order of the court by which each such offender was sentenced or ordered for transportation, containing the sentence or order of transportation of each such offender, by virtue whereof he or she shall be in the custody of such sheriff or gaoler; and also a certificate specifying concisely the description of his or her crime, his or her age, whether married or unmarried, his or her trade or profession, and an account of his or her behaviour in prison before and after trial, and the gaoler's observations on his or her temper and disposition, and such information concerning his or her connexions and former course of life as may have come to the gaoler's knowledge; and such contractor shall give a receipt in writing to the sheriff or gaoler for the discharge of such sheriff or gaoler.

5. Persons contracting to transport Offenders to give proper Security.—Every such contractor, with two sureties, shall, before any such offender shall be delivered to him to be transported, give security by bond to his Majesty that he will effectually transport or cause to be transported every offender included in his contract, to such place beyond the seas as shall be specified in the contract, and procure from the governor of the colony, or other person or persons to whom he shall be directed by one of the principal secretaries of state to deliver such offender, a certificate of the landing of such offender in that place whereto he or she shall be ordered to be transported (death and casualties by sea excepted); and such offender shall not be suffered to return to any part of the United Kingdom by the wilful default of such contractor or of any person employed by him.

6. Punishment of transported Offenders misbehaving on the Voyage—Particulars to be entered in the Log Book under Penalty of L.20.—If any such offender shall be guilty of misbehaviour or disorderly conduct on board of the ship in which he or she shall be transported, it shall be lawful for the surgeon or principal medical officer

for the time being of such ship to inflict or cause to be inflicted on such misbehaving or disorderly offender such moderate punishment or correction as may be authorized by the instructions which he may receive from one of his Majesty's principal secretaries of state: Provided always, that no such punishment or correction shall be so inflicted unless the master or principal officer for the time being of such ship shall first signify his approbation thereof in writing under his hand; and every such punishment or correction, together with the particulars of the offence for which the same is inflicted, and such written approbation as aforesaid, shall on the same day, in all cases, be entered by such master or principal officer as aforesaid upon the log book of the ship, under a penalty of twenty pounds for every neglect to make such entry, to be recovered to the use of the informer, by bill, plaint, or information, in any court of record in England, or in one of the supreme courts of New South Wales or Van Dieman's Land.

7. Secretary of State may nominate persons to have the custody of Offenders transported in King's Ships without Contract or Security.—Provided always, that whenever the transportation of any such offender shall take place in any ship belonging to his Majesty, it shall be lawful for one of the principal secretaries of state, by warrant under his hand, to nominate some person or persons who shall have the custody of such offender during the voyage, and thereupon such offender may be delivered to such nominee or nominees, without any contract or security being required or given for the effectual transportation of such offender; and every such nominee shall have the like power of punishing misbehaviour and disorderly conduct in such offender during the voyage as is hereby given to the surgeon of a ship specially employed for the transportation of offenders.

8. Property in the service of the Offender to be vested in the Governor of the Colony, &c.—So soon as any such offender shall be delivered to the governor of the colony, or other person or persons to whom the contractor, or such nominee or nominees as aforesaid, shall be so directed to deliver him or her, the property in the service of such offender shall be vested in the governor of the colony for the time being, or in such other person or persons; and it shall be lawful for the governor for the time being, and for such other person or persons, whenever he or they shall think fit, to assign any such offender to any other person for the then residue of his or her term of transportation, and for such assignee to assign over such offender, and so as often as may be thought fit; and the property in the service of such offender shall continue in the governor for the time being, or in such other person or persons as aforesaid, or his or their assigns, during the whole remaining term of life or years for which such offender was sentenced or ordered to be transported: Provided always, that for the purposes of this Act every person administering the government of a colony, by whatever name or title he may be denominated, shall be deemed to be the governor thereof.

9. Saving as to the King's Prerogative of Mercy.—Provided always, that nothing in this Act contained shall in any manner affect his Majesty's royal prerogative of mercy.

10. His Majesty may appoint Places of Confinement in England, of Offenders under sentence of Transportation, &c.—It shall be lawful for his Majesty from time to time, by warrant under his royal sign manual, to appoint places of confinement within England or Wales, either at land, or on board vessels to be provided by his Majesty in the river Thames or some other river, or within the limits of some port or harbour of England or Wales, for the confinement of male offenders under sentence or order of transportation, which shall be under the management of a superintendent and overseer to be appointed by his Majesty; and it shall be lawful for one of his Majesty's principal secretaries of state to direct the removal of any male offender who shall be under sentence of death, but who shall be reprieved, or whose sentence shall be respited during his Majesty's pleasure, or who shall be under sentence or order of transportation, and who, having been examined by an experienced surgeon or apothecary, shall appear to be free from any putrid or infectious distemper, and fit to be removed from the gaol or prison in which such offender shall be confined, to any of the places of confinement so appointed; and every offender who shall be so removed shall continue in the said place of confinement, or be removed to and confined in some other such place or places as aforesaid, as one of his Majesty's principal secretaries of state shall from time to time direct, until such offender shall be transported according to law or shall become entitled to his liberty, or until one of his Majesty's principal secretaries of state shall direct the return of such offender to the gaol or prison from which he shall have been removed; and the sheriff

or gaoler having the custody of any offender whose removal shall be ordered in manner aforesaid shall, with all convenient speed after the receipt of any such order, convey or cause to be conveyed every such offender to the place appointed, and there deliver him to such superintendent or overseer, together with a true copy, attested by such sheriff or gaoler, of the caption and order of the court by which such offender was sentenced or ordered for transportation, containing the sentence or order of transportation of each such offender, by virtue whereof he shall be in the custody of such sheriff or gaoler; and also a certificate specifying concisely the description of his crime, his age, whether married or unmarried, his trade or profession, and an account of his behaviour in prison before and after his trial, and the gaoler's observations on his temper and disposition, and such information concerning his connections and former course of life as may have come to the gaoler's knowledge; and such superintendent or overseer shall give a receipt in writing to the sheriff or gaoler, for the discharge of such sheriff or gaoler.

11. Appointment and Duties of Superintendent of such Places of Confinement, Deputies, Overseers, &c.—It shall be lawful for his Majesty to appoint one fit and able person to be superintendent of the said places of confinement; and, in case it shall be deemed expedient, it shall be lawful for his Majesty also to appoint one fit and able person to be assistant or deputy to such superintendent, at one or more of the said places of confinement, and to be constantly resident at or near the place or places to which he shall be appointed; and also one fit and able person to be overseer of each such place of confinement, who, with a sufficient number of officers and guards, shall constantly reside therein; and such superintendent shall personally visit and inspect such places of confinement four times in every year, or oftener if occasion shall require, and shall distinctly examine into the state of such places of confinement, the behaviour and conduct of the respective assistants or deputies, overseers, officers, and guards, the treatment and condition of the prisoners, and the amount of the several earnings, and the expenses attending every such place of confinement, and shall, at least twice in every year, make a faithful report of the same to one of his Majesty's principal secretaries of state, who shall cause such report to be laid before both Houses of Parliament at the beginning of every session; and such superintendent shall distinguish in such report the amount of the earnings and expenses at each of such places of confinement, and shall state the average number of prisoners confined therein, and the number of days labour done by such prisoners, distinguishing the work of artificers, and of any other superior labourers, from that of common labourers; and such superintendent shall also, in matters of extreme necessity, make a special report thereof to one of his Majesty's principal secretaries of state, who may and is hereby authorized to afford such redress or provide such regulations as he shall deem proper; and such superintendent, assistants or deputies, and overseers, shall continue in office during his Majesty's pleasure, and shall receive such salaries as one of his Majesty's principal secretaries of state shall appoint; and such superintendent shall be paid such travelling and other reasonable expenses as shall be incurred by him in discharge of his duty.

12. Cleansing and Purifying and Clothing of Offenders brought to Places of Confinement.—Whenever any offender shall be brought to any such place of confinement as aforesaid in pursuance of the powers of this Act, he shall be washed, cleansed, and purified, and the clothes in which he shall be then clothed shall be burnt, if necessary, or otherwise shall be preserved and taken care of for him by the overseer, and re-delivered to him upon his quitting it, or sold for his benefit, and the produce thereof accounted for to him by the overseer; and when such offender shall be finally discharged, such other decent clothing as shall be judged necessary and proper by the superintendent shall be delivered to such offender by the overseer, and also such sum of money for his immediate subsistence as the superintendent shall think proper, so as such sum shall not in any case exceed three pounds.

13. His Majesty, by Order in Council, may direct Male Convicts to be kept to labour in any part of His Majesty's Dominions out of England named by Order in Council, under the management of the Superintendent of Convicts in England, and of Overseers at the Places appointed.—It shall be lawful for his Majesty by any order or orders in council, to declare his royal will and pleasure that male offenders convicted in Great Britain, and being under sentence or order of transportation, shall be kept to labour in any part of his Majesty's dominions out of England, to be named in such order or orders in council; and whenever his Majesty's will and pleasure shall be

so declared in council, it shall be lawful for one of his Majesty's principal secretaries of state to direct the removal and confinement of any such male offender, either at land or on board any vessel to be provided by his Majesty, within the limits of any port or harbour in that part of his Majesty's dominions which shall be named in such order in council, under the management of the said superintendent, and of an overseer to be appointed by his Majesty for each such vessel or other place of confinement; and every offender who shall be so removed shall continue on board the vessel or other place of confinement to be so provided, or any similar vessel or other place of confinement to be from time to time provided by his Majesty, until his Majesty shall otherwise direct, or until the offender shall be entitled to his liberty.

[*S.* **14** *rep.* 39 *&* 40 *Vict. c.* 42, *s.* 3.]

15. Powers and Duties of Superintendent and Overseer as to Offenders.—After the removal of any offender under this Act, the superintendent and overseer who shall have the custody of him shall, during the term of such custody, have the same powers over him as are incident to the office of a sheriff or gaoler, and shall in like manner be answerable for any escape of such offender; and if any offender shall during such custody be guilty of any misbehaviour or disorderly conduct, the superintendent or overseer shall be authorized to inflict or cause to be inflicted on him such moderate punishment or correction as shall be allowed by one of his Majesty's principal secretaries of state; and such superintendent or overseer shall also during such custody see every offender fed and clothed according to a scale of diet and clothing, to be fixed on and notified in writing by one of his Majesty's principal secretaries of state to the superintendent; and shall keep such offender to labour at such places, and under such regulations, directions, limitations, and restrictions, as by such secretary of state shall from time to time be prescribed; and in case of the absence of any such superintendent or overseer, or of the vacancy of his office, his duties or powers shall be discharged and exercised in all respects by the officer or person on whom the command of the place of confinement shall devolve.

16. Superintendent to act as a Justice of the Peace.—It shall be lawful for such superintendent, and he is hereby authorized, in every such place of confinement as aforesaid, either at land or on board any vessel to be provided as aforesaid, and also in every place wherein any offenders under his superintendence shall be employed to labour, to act in every respect as a justice of the peace, as if he had been named in the commission of the peace, and had been duly qualified to act as a justice of the peace, for the county or place in which any such place of confinement shall be, or any such offender shall be employed to labour.

[*S.* **17** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*); *ss.* **18, 19** *rep.* 53 *&* 54 *Vict. c.* 33 (*S.L.R.*).]

20. Sheriff, &c. may carry Offenders through any County to the Seaport for Transportation.—The sheriff or gaoler, and every person employed in the conveyance of any offender in order to be transported or banished, or to be imprisoned in any such place of confinement as aforesaid, or in the reconveyance of any offender from any such place of confinement to the gaol or prison from which he was removed, may, in such manner as he shall think fit, carry and secure such offender in and through any county of Great Britain, towards the seaport or place from whence he or she is to be transported or banished, or where he or she is to be confined, or to the gaol or prison to which he or she is to be re-conveyed.

21. Fees and Expenses of Removal to be paid by the County where the Conviction took place.—In England and Wales all such fees on the delivering out of custody of any such offender so ordered to be transported or removed as have usually been paid to the sheriff or gaoler, and all reasonable expenses which the sheriff or gaoler shall incur in every such removal, shall be paid by the county, riding, division, city, borough, liberty, or place for which the court in which the offender was convicted shall have been held; and the sheriff or gaoler shall receive the money due for such expenses from the treasurer of such county, riding, division, city, borough, liberty, or place; such fees and expenses being first allowed by the order of the justices of the peace at their quarter or other general sessions of the peace, who are hereby required to make such order as shall be just in that behalf; and the clerk of the court shall be paid by such treasurer the same fee as hath been usually paid, and he is lawfully entitled to receive, for every

order of transportation; and in Scotland all such fees and expenses shall be paid in the same manner as has been heretofore practised.

22. PUNISHMENT OF OFFENDERS FOUND AT LARGE BEFORE THE EXPIRATION OF THEIR SENTENCE OF TRANSPORTATION—PUNISHMENT FOR RESCUING OFFENDERS—REWARD FOR PROSECUTING TO CONVICTION OFFENDERS AT LARGE, L.20.—If any offender who shall have been or shall be so sentenced or ordered to be transported or banished, or who shall have agreed or shall agree to transport or banish himself or herself on certain conditions, either for life or any number of years, under the provisions of this or any former Act, shall be afterwards at large within any part of his Majesty's dominions, without some lawful cause, before the expiration of the term for which such offender shall have been sentenced or ordered to be transported or banished, or shall have so agreed to transport or banish himself or herself, *every such offender so being at large, being thereof lawfully convicted, shall suffer death as in cases of felony, without the benefit of clergy* [*Rep. 4 & 5 Will. 4, c. 67*]; and such offender may be tried either in the county or place where he or she shall be apprehended, or in that from whence he or she was ordered to be transported or banished; and if any person shall rescue or attempt to rescue, or assist in rescuing or attempting to rescue, any such offender from the custody of such superintendent or overseer, or of any sheriff or gaoler or other person conveying, removing, transporting, or reconveying him or her, or shall convey or cause to be conveyed any disguise, instrument for effecting escape, or arms, to such offender, every such offence shall be punishable in the same manner as if such offender had been confined in a gaol or prison in the custody of the sheriff or gaoler, for the crime of which such offender shall have been convicted; and whoever shall discover and prosecute to conviction any such offender so being at large within this kingdom shall be entitled to a reward of twenty pounds for every such offender so convicted.

23. FORM OF INDICTMENT AGAINST OFFENDERS FOUND AT LARGE, OR AGAINST PERSONS RESCUING OFFENDERS.—In any indictment against any offender for being found at large contrary to the provisions of this or of any other Act now made or hereafter to be made, and also in any indictment against any person who shall rescue or attempt to rescue, or assist in rescuing, any such offender from such custody, or who shall convey or cause to be conveyed any disguise, instrument for effecting escape, or arms, to any such offender, contrary to the provisions of this or of any other Act now made or hereafter to be made, whether such offender shall have been tried before any court or judge within or without the United Kingdom, or before any naval or military court-martial, it shall be sufficient to charge and allege the order made for the transportation or banishment of such offender, without charging or alleging any indictment, trial, conviction, judgment, or sentence, or any pardon or intention of mercy, or signification thereof, of or against or in any manner relating to such offender.

24. CERTIFICATE BY CLERK OF COURT OF CONVICTION AND SENTENCE TO BE SUFFICIENT EVIDENCE.—The clerk of the court or other officer having the custody of the records of the court where such sentence or order of transportation or banishment shall have been passed or made shall, at the request of any person on his Majesty's behalf, make out and give a certificate in writing, signed by him, containing the effects and substance only (omitting the formal part) of every indictment and conviction of such offender, and of the sentence or order for his or her transportation or banishment (not taking for the same more than six shillings and eightpence), which certificate shall be sufficient evidence of the conviction and sentence or order for the transportation or banishment of such offender; and every such certificate, if made by the clerk or officer of any court in Great Britain, shall be received in evidence, upon proof of the signature and official character of the person signing the same; and every such certificate, if made by the clerk or officer of any court out of Great Britain, shall be received in evidence, if verified by the seal of the court, or by the signature of the judge, or one of the judges of the court, without further proof.

[*S.* **25** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

26. TRANSPORTED FELONS, WHO HAVE RECEIVED REMISSION OF ANY PART OF THEIR SENTENCE FROM THE GOVERNOR OF ANY COLONY, MAY BRING ACTIONS FOR PROPERTY ACQUIRED SINCE CONVICTION, &c.—And whereas it hath sometimes happened that felons under sentence or order of transportation in New South Wales and the islands adjacent have received from the governor or lieutenant governor thereof remissions, either absolute or conditional, of the whole or of some part of the term of their transportation, and have

by their industry acquired property, in the enjoyment whereof it is expedient to protect them; and the like may happen in future in the same colony, and in other colonies to which felons may be transported under and by virtue of this Act: Be it therefore enacted, that it shall and may be lawful for every felon under sentence or order of transportation, who hath received or shall receive any such remission as aforesaid from the governor or lieutenant governor of New South Wales, or from the governor or lieutenant governor of any other colony, who may be authorized to grant the same, while such felon shall reside in a place where he lawfully may reside under such sentence, order, or remission, and under the provisions of this Act, to maintain any action or suit for the recovery of any property, real, personal, or mixed, acquired by such felon since his or her conviction, and for any damage or injury sustained by such felon since his or her conviction, not only in the courts of the colony or place where such felon shall lawfully reside, but also in the courts of this kingdom, and of all other his Majesty's dominions; and if the defendant in any such action or suit shall plead or allege in his defence the plaintiff's or complainant's conviction of felony, and the plaintiff or complainant shall allege and prove that he or she hath received such remission as aforesaid, and is residing in some place consistent therewith and with the provisions of this Act, a verdict shall pass and judgment shall be given for the plaintiff or complainant.

[*Ss.* **27, 28** *rep.* 56 *&* 57 *Vict. c.* 61; *s.* **29** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

CHAPTER LXXXVII.

THE ENTAIL PROVISIONS ACT, 1824 (*Short Titles Act*, 1896).

AN ACT to authorize the Proprietors of Entailed Estates in Scotland to grant Provisions to the Wives or Husbands and Children of such Proprietors.

[21st June 1824.]

[*Preamble recites Act of the Parliament of Scotland*, 1685, *c.* 22, *and* 10 *Geo.* 3, *c.* 51.]

1. HEIR OF ENTAIL IN SCOTLAND MAY MAKE PROVISION FOR WIFE BY LIFERENT—LIMITATION OF AMOUNT.—It shall and may be lawful to every heir of entail in possession of an entailed estate under any entail already made or hereafter to be made, in that part of Great Britain called Scotland, under the limitations and conditions after mentioned, to provide and infeft his wife in a liferent provision out of his entailed lands and estates by way of annuity; provided always, that such annuity shall not exceed one-third part of the free yearly rent of the said lands and estates, where the same shall be let, or of the free yearly value thereof where the same shall not be let, after deducting the public burdens, liferent provisions, the yearly interest of debts and provisions, including the interest of provisions to children herein-after specified, and the yearly amount of other burdens of what nature soever affecting and burdening the said lands and estates or the yearly rents or proceeds thereof, and diminishing the clear yearly rent or value thereof to such heir of entail in possession, all as the same may happen to be at the death of the grantor.

2. HEIR FEMALE OF ENTAIL MAY MAKE PROVISION FOR HUSBAND—LIMITATION OF AMOUNT.—It shall and may be lawful to every heir female in possession of such entailed estate as aforesaid to provide and infeft her husband in a liferent provision out of her entailed lands and estates by way of annuity; provided always, that such annuity shall not in any case exceed one half of the free yearly rent or free yearly value as aforesaid of the whole of the said lands and estates, after all deductions to be made from the same in manner before mentioned; but in case the said lands and estates shall already be burthened with a prior existing annuity, granted to a wife or husband under the authority of this Act, the annuity to be granted to a husband in manner before mentioned shall not exceed one-third part of the said yearly rent or yearly value to be taken as aforesaid.

3. ONLY TWO LIFERENT PROVISIONS TO BE SUBSISTING AT ONE TIME ON AN ENTAILED ESTATE.—Provided always, that where two liferents to wives or husbands, granted under the powers herein-before contained, shall be subsisting at any one time upon an entailed estate, it shall not be competent to grant a third liferent to take effect till one of the

former subsisting liferents shall cease or expire; but the power of granting a liferent may be exercised so as to increase a former liferent, or grant a new liferent to the extent herein-before authorized to be granted, upon the ceasing or expiration of any former or subsisting liferent, although the same may not take place in the lifetime of the person granting such prospective or increased liferent.

4. Heir of Entail may make Provision for Children—Limitation of Amount—Provision to be effectual only for Children surviving Grantor, except as herein-after mentioned—Provision for Child succeeding to Estate to be extinguished.—It shall and may be lawful to the heir of entail in possession of any such entailed estate as aforesaid to grant bonds of provision or obligations, binding the succeeding heirs of entail in payment, out of the rents or proceeds of the same, to the lawful child or lawful children of the person granting such bonds or obligations, who shall not succeed to such entailed estate, of such sum or sums of money, bearing interest from the grantor's death, as to him or her shall seem fit: Provided always, that the amount of such provision shall in no case exceed the proportions following of the free yearly rents or free yearly value of the whole of the said entailed lands and estates, after deducting the public burdens, liferent provisions, including those to wives or husbands authorized to be granted by this Act, the yearly interest of debts and provisions, and the yearly amount of other burdens of what nature soever, affecting or burdening the said lands and estates, or the yearly rents or proceeds thereof, and diminishing the clear yearly rent or yearly value thereof as aforesaid to the heir of entail in possession; (that is to say), for one child, one year's free rent or value; for two children, two years free rent or value; and for three or more children, three years free rent or value in the whole: Provided always, that such provision shall, except in the case of the settlement thereof by a marriage contract as herein-after mentioned, be valid and effectual only to such child or children as shall be alive at the death of the grantor, or to the child or children of which the wife of the grantor shall be then pregnant; and upon any such child succeeding to the entailed estate, the provision granted to him or her, in so far as not previously paid, shall be extinguished for ever, and shall never be set up as a debt against any succeeding heir.

5. Provision for Child settled in consideration of Marriage shall be effectual although Child die before Grantor.—Provided always, that if any child to whom any such provision as aforesaid may be granted shall marry, and that such provision, or any part thereof, shall, with the consent of the grantor of the same, be settled in the contract made in consideration of the marriage of such child, and such child so marrying shall die before the grantor of such provision, then and in all such cases the provision, or any part thereof, so settled in consideration of such marriage, shall remain and be effectual, as if such child had survived the grantor.

6. Where Provisions to Children are granted to the full extent, no further Provisions shall be granted till part of those existing be paid or extinguished.—Provided always, that where the powers herein-before contained of granting provisions to a child or children shall have been exercised by one or more heir or heirs in possession of any such entailed lands and estates as aforesaid, to the full extent of three years free rent or value of the entailed estate as aforesaid, it shall not be in the power of any heir in possession of the same lands and estates to grant further provisions to his or her child or children, till some part of the provisions granted to the extent of three years free rent or value as aforesaid shall have been paid or extinguished; but upon the payment or extinction thereof, or of any part thereof, it shall be in the power of such heir in possession to grant provisions to his or her child or children, to the extent of the provisions so paid or extinguished as aforesaid; the heir in possession of any such entailed lands and estates as aforesaid being always hereby empowered to grant provisions to his or her child or children, to such extent of the power of granting provisions to a child or children herein-before contained as may be open or unexercised for the time, so that the provisions to be granted do not in any case exceed the proportions aforesaid of one year's free rent or value for one child, of two years free rent or value for two children, and of three years free rent or value for three or more children: And provided always, that such provision shall (except in the case of the settlement thereof by a marriage contract as herein-before mentioned,) be valid and effectual only to such child or children as shall be alive at the death of the grantor, or to the child or children of which the wife of the grantor shall be then pregnant; and that upon any such child

succeeding to the entailed estate, the provision granted to him or her, in so far as not previously paid, shall be extinguished for ever, and shall never be set up as a debt against any succeeding heir.

7. Provisions in excess of the Amount hereby authorized shall not be void, but only voidable to the extent of the excess.—Provided always, that in every case in which the provision granted to a wife or husband, or to a child or children, under the authority of this Act, shall exceed such proportions of the rent or value of any entailed estate as herein-before mentioned, such provision shall not be deemed to be null and void, but the same shall be voidable at the instance of the heir of entail next in the order of succession, or of any other heir of entail, to such extent as such provision shall exceed those herein authorized in each respective case to be granted, but no further; and the Court of Session in either division thereof is hereby authorized and required to make the necessary order to that effect, on advising a petition to be presented to that court by the heir of entail next in the order of such session,[1] or any other heir of entail.

[1] *So in Parliament Roll.*

8. No Security or Provision under this Act to affect the Fee of the Estates.—Provided always, that no securities or provisions to be granted under the authority of this Act to a wife or husband, or to a child or children, of the proprietors of any such entailed lands and estates as aforesaid, shall affect, or be made by any process of law whatsoever to affect, the fee of the same lands and estates, but such securities and provisions shall only affect the yearly rents or proceeds of the said lands and estates.

9. After death of the Grantor of Provisions to Children, the Heir succeeding to the Estate shall make payment thereof, with Interest—In default payment may be enforced in the Court of Session.—After the expiration of one year from the death of the grantor of such provisions to children as aforesaid, it shall and may be lawful for the person or persons having right to the same to require the heir succeeding to the estate, to make payment of the said provisions, with the legal interest thereof, from the term at which the right of such succeeding heir to the rents of the estate did commence, after receiving a proper discharge thereof, or assignment to the same; and if the money shall not be paid within three months after requisition of payment shall be made as aforesaid, it shall then be lawful for the person or persons having right to any such provision to institute an action in the Court of Session against the heir then in possession, for compelling him or her to pay the money and interest thereof; and on obtaining a decree, the person or persons in whose favour decree shall be made shall be at liberty to use every kind of diligence or execution authorized by the law of Scotland in recovering the payment of debts, except adjudication, against the entailed estate.

10. Heirs sued for Provisions to Children shall be discharged on conveying one-third of the clear Rents to a Trustee named by the Court of Session.—In case any heir in possession of an entailed estate shall be sued for payment of the provisions granted under the authority of this Act to the child or children of any former heir or heirs, he or she shall be discharged in all cases from such suit, upon assigning or effectually conveying to a trustee, to be named by the Court of Session, one-third part of the clear rents or proceeds of the entailed estate payable to such heir in possession during his or her life, or until the provisions aforesaid shall be paid off; and the rents so assigned and conveyed shall be applied in payment of the whole subsisting provisions to a child or children granted under the authority of this Act.

11. Grant of Provisions not to be a Contravention or Forfeiture, &c., under any Clause in any Deed of Entail.—For and notwithstanding of any clause prohibitory, irritant, or resolutive, proviso, matter, or thing in any deed of entail contained to the contrary, no proprietor of any entailed estate in Scotland shall be held to have committed any contravention, or to have incurred any irritancy or forfeiture, for or by reason of such proprietor having granted any of the provisions upon or out of an entailed estate herein-before authorized to be granted.

12. Act not to diminish more extensive Powers under Deeds of Entail.—Nothing herein contained shall be held or construed to diminish or abridge the powers of the heir in possession of any such entailed estate in Scotland as aforesaid, in regard to the granting of provisions to his or her wife or husband, or to his or her child or children, if empowered by the deed of entail under which he or she shall hold such entailed estate to grant provisions to a larger extent than those herein-before specified; but it shall not

be lawful in any case to grant any such provision as is herein-before authorized to be granted in addition to any provision authorized to be granted to a wife or husband, or to a child or children, under any deed of entail, so as to exceed in the whole the proportions of the yearly rent or yearly value of any entailed estate herein-before mentioned and authorized to be granted for making such provisions as aforesaid.

13. The Heir in possession shall in no case be deprived of more than two third parts of the clear Annual Rents.—The powers given and granted by this Act, and by the said recited Act of the tenth year of the reign of his said late Majesty, shall in no case be exercised to such an extent as to deprive the heir in possession of any entailed lands and estates in Scotland of more than two-third parts of the free yearly rent or free yearly proceeds of the same; and the Court of Session, in either division thereof, is hereby authorized and required in each respective case to give all necessary orders for relieving the heir in possession from the payment of more than such two third parts of the said free yearly rent or yearly proceeds as aforesaid, by authorizing such heir to retain any excess beyond the same, from the security or provision, or securities or provisions, on such entailed lands and estates which shall be least entitled by the law of Scotland to legal preference.

CHAPTER XC.

An Act to amend an Act for building additional Places of Worship in the Highlands and Islands of Scotland. [21st June 1824.]

[*Preamble recites* 4 *Geo.* 4, *c.* 79.]

[*S.* 1 *rep.* 53 *&* 54 *Vict. c.* 33 (*S.L.R.*).]

2. Treasury may issue L.50,000 to Commissioners for the purposes of this Act—Accounts of the Expenditure to be rendered to the Barons of Exchequer in Scotland.—It shall and may be lawful for the Treasury to issue, out of the consolidated fund of the United Kingdom, the sum of fifty thousand pounds to the commissioners appointed by virtue of the said recited Act, or any three or more of them; such sum of fifty thousand pounds to be applied by the said commissioners for the purposes of this Act, and in the meantime to be invested by them in Exchequer bills, or otherwise, as they may think fit; and the said commissioners shall render accounts of the expenditure thereof to the barons of the Exchequer in Scotland, at such times and in such manner as they shall think fit to order and direct.

3. Commissioners may, upon application, erect additional Places of Worship, with suitable provision for Residence of Ministers.—It shall and may be lawful for the said commissioners to erect or set apart buildings for additional places of worship, to make fit and suitable provision for the residence of the minister officiating at such places of worship, and to exercise the other powers for the accomplishment of the purposes of this Act, within such parish or parishes in the highlands or islands of Scotland from which application shall be made to the said commissioners, by any heritor or heritors possessed of land to the amount of one hundred pounds Scots of valued rent in any parish or parishes in the highlands or islands of Scotland where an additional place of worship is by him or them desired to be erected or set apart.

4. Application to specify certain Particulars.—In all cases where any such additional places of worship, and dwelling house with offices, shall be proposed to be erected, or to be purchased and fitted up pursuant to this Act, it shall be set forth in the application to the said commissioners whether the heritor, or any two of the heritors, making such application is or are willing to undertake for the repair of such additional place of worship to the extent herein-after limited; and in what manner ground for the site thereof, and also ground sufficient for a churchyard or place of burial (where such shall be deemed necessary), with access thereto, and also ground for a garden for the minister (of not less than half a Scotch acre) can be provided and secured, and whether such ground is to be given and granted without valuable consideration, or is proposed to be paid for out of the money granted by this Act: Provided always, that the sum proposed to be paid for the ground, and the immediate possession thereof, shall be specified in the said application; and if it shall be proposed that any building already erected shall be appropriated and fitted up as an additional place of

worship pursuant to this Act, it shall in like manner be specified in such application whether the same is to be given and granted without valuable consideration, or whether it is to be sold to the commissioners; and in this last case, the proposed price shall be specified in the said application.

5. Notice to be given of Application.—Upon receiving any such application the said commissioners shall direct notice thereof to be given to the incumbent or incumbents of the parish or parishes from whence such application shall come, who shall cause such notice to be read from the precentor's desk or desks, after the morning service, on the first Sunday after the same shall be received by him or them, and who shall also cause a copy thereof to be affixed on the door or doors of the parish church or churches.

6. Circumstances of the case to be inquired into; and if Commissioners determine upon an Additional Place of Worship, Heritors and Presbytery to define the District—If Heritors and Presbytery cannot agree, the matter to be referred to the Sheriff Depute—Commissioners to determine the situation and size of the Building and Dwelling House.—From and after the expiration of a certain time to be specified in such notice, it shall and may be lawful for the said commissioners, after having inquired into the circumstances of the case, to settle and determine whether an additional place or places of religious worship should be provided in such parish or parishes; and if the said commissioners shall determine that an additional place or places of worship ought to be provided for the parish or parishes from which such application shall have been made, then the said commissioners are hereby empowered and directed to require the heritor or heritors making such application to settle and agree with the presbytery of the bounds, so as to define and set apart a certain district within such parish or parishes for behoof of which district such additional place of worship is to be erected or provided, and to which the labours of the minister, to be appointed as herein-after directed to officiate at such additional place of worship, shall be confined; and if such heritor or heritors and presbytery cannot agree, then they shall and they are hereby required to state the matter to the sheriff depute of the county, who is hereby required to hear the parties, or to receive a written statement from them (if they think proper to make a written statement), and to make a report thereupon to the said commissioners, who are hereby authorized upon receiving such report to require further information, if they think it necesssary, and thereafter, or upon such report, finally to determine and set apart such district: Provided nevertheless, that it shall be lawful for the commissioners, before any such district is defined and set apart as aforesaid, to ascertain and settle the proper situation for, with access to, and the size and description of the building which shall be erected or purchased and fitted up pursuant to this Act as an additional place of religious worship, to be and become an additional place of religious worship in full communion with the established Church of Scotland with a churchyard or place of burial (if such shall be deemed necessary), and of the dwelling house, with such offices and appurtenances as it may be proper should be afforded to the minister thereafter appointed pursuant to this Act to officiate at such additional place of worship; and the said commissioners are hereby further authorized to proceed in the erecting or purchasing and fitting up the said building or buildings, as the case may require, before any such district is defined and set apart as aforesaid.

7. District may at any time be altered, &c.—Provided always, that upon the representation of the presbytery of the bounds within which any such district shall be situate, it shall and may be lawful for the said commissioners at any time thereafter to alter such district, and to define and set apart a new district for any such additional place of worship.

8. Commissioners may accept Ground as Glebe, &c.—It shall and may be lawful for the said commissioners to accept from any heritor or heritors in any parish in which such an additional place of worship shall be erected or provided, a portion of ground in name of glebe, and also to accept any grant or privilege of grassing in the summer.

9. Heirs of Entail and Trustees, &c. may grant Land for the purposes of this Act.—It shall and may be lawful for any heir of entail in Scotland, trustee, tutor and curator of minors, and every person lawfully empowered to act for persons under any legal disability or incapacity, with or without valuable consideration, to give and grant, heritably and irredeemably, or in lease, to the said commissioners, such land or heritage belonging to them or under their management, as may be necessary for all or any of the purposes before specified; and such heir of entail shall not thereby be subject to nor

incur any forfeiture or irritancy under any deed of entail by virtue of which he or she may hold the said land or heritage.

10. Form of Conveyance—Conveyances to be registered, &c.—All conveyances or assurances which shall be made of any lands and heritages for the purposes of this Act shall be made according to the following form, or as near thereto as the circumstances of the case will admit:

'I [or we] of do hereby grant, dispone, and convey to 'the commissioners acting in the execution of an Act passed in the fifth year of the 'reign of his Majesty King George the Fourth, intituled [here set forth the title of this 'Act], [describing the premises to be conveyed], and all my right, title, and interest to 'and in the same and every part thereof, to hold to the said commissioners or such person 'or persons as they shall appoint, to be devoted for ever to the purposes specified in 'and by virtue of and according to the true intent and meaning of the said Act passed 'in the fifth year of the reign of his present Majesty. In witness whereof I have set 'my hand to these presents, written by [insert the name and description of the writer], 'this day of in the year of our Lord . Before these 'witnesses [insert names and descriptions of witnesses, who will also subscribe as 'witnesses.]'

And all such conveyances and assurances shall be registered within sixty days of the date thereof in the general or particular register of sasines, and shall thereupon be valid and effectual in law to all intents and purposes, and shall be a complete bar to all other rights, titles, trusts, and interests, and incumbrances to, in, or upon the same whatsoever; and no stamp duty shall be paid for or in respect of any such conveyances or assurances, or of any lease to be granted under the powers contained in this Act, any law to the contrary notwithstanding.

11. Size and description of Buildings, &c. to be settled by the Commissioners—Cost not to exceed L.1500 in any one case.—The size and description of the building for any such place of religious worship, and of a dwelling house for the minister, with offices as aforesaid, and the manner in which the same shall be executed and completed, or purchased and fitted up, shall be ascertained and settled by the said commissioners acting in the execution of this Act, together with the expence thereof and of inclosing the same; the total amount whereof, including the price to be paid for the ground or premises where the same shall be paid out of the money hereby granted, shall not exceed the sum of one thousand five hundred pounds in any one case.

12. Church, &c. when completed to be appropriated for the purposes of this Act.—Provided always, that after the erection or purchase of any such place of worship, building, or premises, shall have been completed by the said commissioners, the same is hereby and shall for ever continue to be appropriated for the purposes of this Act.

13. Amount of Minister's Stipend (including sum necessary for Communion Elements) not to exceed L.120 per annum.—The said commissioners acting in the execution of this Act, upon being satisfied in respect of the completion of any additional place of worship, and of a dwelling house and appurtenances for the minister, shall ascertain and fix the stipend which shall be paid and payable to the minister to be nominated and appointed to officiate at any such place of worship, from the term of Whitsunday or Michaelmas immediately preceding the date of his admission thereunto by the presbytery of the bounds, and which stipend shall not exceed the sum of one hundred and twenty pounds per annum in any case (including the sum necessary for communion elements, which shall be provided by and at the expence of the said minister), which stipend, on the issue thereof in manner herein-after mentioned, shall not be subject to any Exchequer fees, stamp duties, or other deductions whatsoever; and the said commissioners shall certify the amount of the same under their hands to the said barons of the Exchequer in Scotland; whereupon and thereafter the said barons shall issue their precepts for the payment of such stipend half-yearly, at such two terms in the year, during the incumbency of the person entitled to the same, and in such manner, as herein-after is mentioned.

14. Completion of Church, &c. to be certified, as also the amount of the Stipend of the Minister, which shall be paid under 50 Geo. 3, c. 84—Nomination of Ministers to be in his Majesty, or in default of such Nomination, then in Presbytery.—The said commissioners shall certify to his Majesty's secretary of state for the Home Department the completion of such additional place of worship and

premises, as the case may be, and the amount of the stipend to be paid and payable to the minister officiating thereat, which shall be paid to such minister by the receiver general of Scotland, out of any public money for the time in his hands, at such terms in the year, and in such manner as the augmentation of stipends made by virtue of an Act passed in the fiftieth year of the reign of his late Majesty George the Third, intituled "An Act for augmenting parochial stipends in certain cases in Scotland," is by that Act directed to be paid; and it shall and may be lawful for his Majesty thereupon, and in any case where a vacancy shall happen thereafter, by the death, resignation, deprivation, or removal of the incumbent to another living, to nominate and appoint a fit person to be the minister of such place of worship, within six calendar months after the date of such intimation to his Majesty's secretary of state, or after the date of the said vacancy to whom the aforesaid stipend shall be paid and payable in the manner herein-before directed; and if no such minister shall be nominated or appointed by his Majesty within the space of six calendar months, it shall in that event be lawful for the presbytery of the bounds within which such place of worship is situated, according to the law of Scotland in like cases, jure devoluto, to nominate and appoint a fit person to be minister of the said place of worship, who shall be authorized, on his admission to the said place of worship, to discharge all the duties required of the minister thereof, and shall thereupon become empowered and enabled to receive all the emoluments belonging to his situation as minister aforesaid, in the same manner and to the same effect, and with the same right and title, as if he had been nominated by his Majesty.

15. Nomination, &c. to be laid before Presbytery, and Nominee, if found duly Qualified, to be admitted, &c.—Such nomination shall be laid before the presbytery within whose bounds the said place of worship shall be situated, along with a letter of acceptance by the person so nominated, his licence and testimonials, and a certificate of his qualification to government, if such person shall not have been previously ordained, and if previously ordained, an extract of such previous ordination; and thereupon the person so nominated, if found on trial to be qualified, shall be admitted to be minister of the said place of worship by the said presbytery of the bounds, according to the law and practice and the accustomed forms of the Church of Scotland; and when the person so nominated shall be admitted and ordained as aforesaid, he shall be thereby entitled and bound to discharge, within the district for the behoof of which the said place of worship shall have been erected or provided, all the duties of a minister of the Church of Scotland, save and except the right and duty of church discipline, and shall be in all respects subject to the discipline and government of the Church of Scotland by presbyteries, provincial synods, and general assemblies, as by law unalterably established.

16. Provision for Elders at additional Places of Worship.—It shall and may be lawful for the minister and kirk session of the parish or parishes to which the district attached to any such place of worship belongs to make such provision for the attendance of members of the said kirk session or kirk sessions (being inhabitants of the district attached to the additional place of worship), to officiate as elders at the said place of worship, as to them shall seem necessary and expedient, and as is customary by the practice and forms of the Church of Scotland for the attendance of elders at parish churches; and that the minister of the district, together with these elders, shall give direction in all things relative to the additional church of the district.

17. Provision for Collections for the Poor of the Districts assigned to additional Places of Worship, &c.—If Collections be insufficient the Poor to retain their claim on the Parishes—Ministers, &c. to keep Accounts and produce them when required.—The ministers and elders officiating at such place of worship shall be and they are hereby enabled and required to make weekly and other collections for the poor of the district to be assigned to such additional place of worship, and to receive and apply voluntary donations or charitable contributions, in the same manner, and to the same extent, and for the same uses and purposes within the district, but subject to the same rules and regulations as is now competent to the ministers and kirk sessions of parish churches, and subject also to the controul and direction of the kirk session and heritors of the parish or parishes to which the said district belongs: Provided always, that the poor within the said district in the event of the said collection or voluntary contributions being insufficient for their relief, shall retain their claim (as it may now exist by law) for relief upon the parish or parishes to which they may belong: and with and under this express provision and declaration, and it is hereby expressly

provided and declared that the minister and elders of the said additional place of worship shall be bound and obliged, as they are hereby expressly directed and required, to keep a regular record of their receipts and disbursements, and to produce the same to the kirk session or kirk sessions and heritors of the parish or parishes in which the said district shall be situated, and to the presbytery of the bounds, as often as they shall be required so to do.

18. Provision for the Repair of additional Churches, and of Dwelling Houses out of the Pew Rents, and by Ministers and Heritors—Limit of the Expence of Repairs to be defrayed by the Heritors—Limit of the Expence to be defrayed by the Minister.—[*Recital*] With respect to every such additional place of worship, the heritor or any two of heritors applying for the same, his or their heirs and successors in the lands, situated within the district for which such additional place of worship shall be set apart, to be specified and described for that purpose, shall by such application be and become bound to keep and maintain such additional place of worship in good and sufficient repair to the extent herein-after limited; (that is to say): Provided always, that the pew rents of such additional place of worship shall be applied towards the repair of such additional place of worship, and also of the dwelling house and offices of the minister, in the first instance, under the directions of the surveyor appointed by the commissioners, and in default of his giving such directions during one whole year, then under the directions of the heritor or heritors undertaking for the repair of such additional place of worship, of the minister and of the officiating elders, who are also empowered hereby to give direction for small repairs at any time when requisite; and provided further that after the application of the pew rents, the expence to be defrayed by the said heritor or heritors so applying, his or their heirs and successors as aforesaid, shall not in any one year exceed the sum of one per centum upon the amount of the money originally expended in building or purchasing and completing such additional place of worship (or, in case of gift of any building for that purpose, in like manner not exceeding one per centum upon the original value of the same as estimated by the surveyor of the commissioners); to which extent and no further, the said heritor or heritors shall be compellable to repair the same in such manner as heritors are compellable by law to repair parish churches in Scotland; and with respect to the dwelling house and offices of the minister officiating at any such additional place of worship, the same shall be kept and maintained in good and sufficient repair by such minister for the time being: Provided always, that the pew rents of such additional place of worship shall be set apart and applied as well to the repair of such dwelling house and offices, as to the repair of such additional place of worship in the first instance, in proportion to the first cost or value of such place of worship, and of such dwelling house respectively, and in manner as aforesaid; and provided further, that the expence to be defrayed by the said minister for the time being shall not in any one year exceed the sum of two per centum upon the estimated original value of the same, or upon the amount of the money expended in building and completing such dwelling house and offices.

19. Letting of Pews.—The manner of letting pews in the additional places of worship shall be settled as agreed upon by and between the heritor or heritors who undertake for the repair of the additional places of worship as aforesaid and the minister for the time being: Provided always, that in no case whatever shall the pew rent exceed the sum of two shillings and sixpence per annum for each sitting; and if they cannot agree, then they shall and they are hereby required to state the matter to the sheriff depute of the county, who is hereby required to hear the parties, or to receive a written statement from them (if they think proper to make a written statement), and to make a report thereupon to the said commissioners, who are hereby authorized upon receiving such report to require further information, if they think it necessary, and thereafter, or upon such report, finally to settle the manner of letting the pews thereof: Provided always, that one sufficient pew shall be set apart and appropriated rent-free for the accommodation of the family of the heritor who undertakes wholly or principally for the repair of the additional place of worship as aforesaid, and another pew in like manner for the accommodation of the family of the minister officiating in the district, and another pew for the officiating elders: And provided also, that not less than one-third part of the said place of worship shall be set apart as free seats for all persons frequenting the same, unless the commissioners shall upon some special representation see fit to direct otherwise.

20. Accumulations of Pew Rents for Repairs to be paid into the Bank of Scotland, &c.—[*Recital*] When and so soon as a balance of twenty pounds sterling and upwards shall appear to have accumulated upon receipt of the half-yearly pew rent due at Martinmas in every year, it shall be lawful for the minister and officiating elders, and they are hereby directed and required, to pay the same into the Bank of Scotland, or some branch bank thereof, or some other chartered bank, in the name of two of themselves thereunto appointed from time to time, as may be deemed requisite and proper by the majority of them.

21. Money so paid may be drawn out to keep the Church, &c. in Repair.—The money so paid into bank may be drawn out and expended for the purpose of upholding in due repair or improving the fabric of the additional place of worship, or dwelling house of the minister, (in proportion to the first cost or value of such place of worship or dwelling house respectively), and for no other purpose whatsoever.

22. Payment of Pew Rents in advance.—All pew rents shall be payable in advance, (that is to say), one year's rent shall be paid on admission to the pew or seat, if such admission shall take place at Whitsunday or Martinmas, or if at any intermediate period, then for the proportion of the half year to Whitsunday or Martinmas, together with a half year's rent over and above such proportion, and thereafter half-yearly payments shall be made in advance, commencing on the Whitsunday or Martinmas immediately following the admission to such pew or seat; and every such pew or seat shall be forfeited and become vacant by the discontinuance of any such payment in advance for two following half years.

23. Rights and Interests of Ministers of Churches under this Act shall be regulated as those of the Parochial Clergy.—The rights and interests of the respective ministers who may be appointed to officiate at the places of worship erected or set apart under the authority of this Act shall, in case of their decease, removal, or resignation, cease and determine, and shall be regulated, at the same terms of Whitsunday or Michaelmas, and in the same manner, as the rights and interests of the parochial clergy of Scotland in their parochial stipends cease and determine, and are regulated, by the law of Scotland; and in like manner the rights and interests of their successors appointed to officiate at such places of worship shall commence and vest at the terms of Whitsunday or Michaelmas immediately preceding their admission to their respective places of worship, in like manner as the rights and interests of the parochial clergy of Scotland in their stipends do commence and vest by the law of Scotland.

24. Widows, &c. of such Ministers shall be entitled to the same payments as those of the Parochial Clergy.—The widow or nearest of kin of the minister appointed to officiate at such place of worship shall be entitled to draw one half-yearly moiety of the stipend payable under the authority of this Act in the name of Ann, over and above the proportion of stipend or allowance that may have been due to the minister deceasing, in the same manner as is directed by the law of Scotland with respect to the parochial stipends of the clergy of Scotland, and payment of the said moiety in the name of Ann shall be made, in the manner above directed for the payment of stipend for the ministers officiating at such places of worship, to those having right thereto by the law of Scotland, upon their receipt, without the necessity of confirmation or other title to be made up in their behalf.

25. Questions as to Rights of Ministers, &c. to be determined in the same manner as questions respecting Parochial Clergy, &c.—Districts of new Places of Worship not to constitute separate Parishes.—All questions which may arise in courts of law respecting the rights of the ministers appointed to officiate at such places of worship, or regarding their civil and patrimonial interests in their respective situations, and all questions which may arise respecting the administration of the weekly or other collections made at such places of worship, shall be judged of and determined respectively according to the law of Scotland respecting the rights and interests of parochial clergy, and respecting the administration and distribution of the collections made at parish churches, in so far as may be consistent with the provisions of this Act; and regard being always had to the consideration, that the district set apart for the duties of such minister, appointed as aforesaid, is not disjoined from the parish or parishes to which it belongs, or erected into a separate parish; and that the elders officiating at such place of worship do not, along with such ministers, form any separate and distinct kirk session, and cannot derive any authority as such from the provisions of this Act, but are merely

members of the kirk session or kirk sessions of the respective parish or parishes in which the district has been set apart, and have no authority or jurisdiction except such as by law belongs to them as members of such kirk session or kirk sessions, and acting as members of meetings of the same.

26. Saving of the Discipline and Government of the Church.—Nothing contained in this Act shall interfere with or be construed to interfere with the discipline and government of the Church of Scotland, by kirk sessions, presbyteries, provincial synods, and general assemblies, as by law unalterably established; and the ministers appointed to officiate at the places of worship erected or set apart under authority of this Act shall be in all respects subject to the ecclesiastical superintendance and government of the Church of Scotland, according to the laws of that church.

27. Not more than 40 Churches to be established under this Act.—Provided always, that the number of additional places of worship to be established under the provisions of this Act shall not at any time exceed forty.

28. Commissioners may repair ten additional Churches for occasional Service, and provide Houses, Stipends, &c.—[*Recital*] In addition to the number of forty additional places of worship that may be established under this Act, it shall and may be lawful for the said commissioners to put in sufficient repair any number, not exceeding ten, of such places of religious worship to which a minister may occasionally resort for the purpose of performing divine service, and to provide a dwelling house with a garden, and to settle a stipend for the minister to be appointed to any such place of worship, in the manner directed by this Act; and the same course shall be followed in the case of any such additional place of worship and dwelling house, and the minister thereof, as is directed by this Act to be followed in the case of any other additional place of worship, dwelling, or minister, established by virtue thereof.

29. Extra-parochial Places to be deemed Parishes for purposes of this Act.—It shall and may be lawful for the said commissioners, in execution of this Act, to consider any extra-parochial place in the highlands or islands of Scotland as a parish, and they are hereby authorized to proceed accordingly; and in case of the absence of any heritor or heritors from the realm, they are hereby empowered to entertain any application of his accredited agent or factor for his behoof, in all matters relative to the execution of this Act.

30. Treasury to issue Money for defraying the Expences incurred in execution of this Act—Commissioners to report to Parliament.—It shall and may be lawful for the Treasury, and they are respectively authorized, to direct to be issued and advanced all such sums of money as shall appear to them to be necessary, to such person or persons, in such manner, and in such proportions, as the said commissioners acting in the execution of this Act, or any three of them respectively, shall by writing under their hands from time to time desire, and as shall be approved of by the Treasury, and such monies may and shall be issued out of any part of the public monies remaining in his Majesty's Exchequer at Westminster; which sums to be issued and advanced shall be applied to the payment of allowances and rewards as aforesaid, and in defraying all necessary charges and expences in or about the execution of this Act, without other account than before the said commissioners of the Treasury; and which money so to be issued shall not be subject to any tax, duty, rate, or assessment whatever imposed by authority of Parliament; but an account of the said charges and expences, so long as the said commission shall remain in force, shall be laid before both Houses of Parliament once in every year; and the said commissioners acting in the execution of this Act shall also once in every year report their proceedings under this Act in writing to both Houses of Parliament, with such observations as they shall think proper.

CHAPTER CXIII.

THE SLAVE TRADE ACT, 1824 (*Short Titles Act*, 1896).

AN ACT to amend and consolidate the Laws relating to the Abolition of the Slave Trade. [24th June 1824.]

[*Preamble.*]

[*S.* **1** *rep.* 36 *&* 37 *Vict. c.* 88, *s.* 30.]

2. THE PURCHASE, SALE, OR CONTRACT FOR SLAVES DECLARED UNLAWFUL; AS ALSO THE REMOVAL, IMPORTATION, OR EXPORTATION OF SLAVES; THE FITTING OUT OF VESSELS, OR MAKING OF LOANS OR GUARANTEES ON SHIPPING OF GOODS FOR THE ABOVE PURPOSES; THE SERVING ON BOARD SHIPS EMPLOYED FOR ANY OF SUCH PURPOSES; OR THE INSURING OF SLAVES OR SLAVE ADVENTURES.—It shall not be lawful for any persons to deal or trade in, purchase, sell, barter, or transfer, or to contract for the dealing or trading in, purchase, sale, barter, or transfer of slaves, or persons intended to be dealt with as slaves; or to carry away, or remove, or to contract for the carrying away or removing of slaves or other persons, as or in order to their being dealt with as slaves; or to import or bring, or to contract for the importing or bringing into any place whatsoever slaves or other persons, as or in order to their being dealt with as slaves; or to ship, tranship, embark, receive, detain, or confine on board, or to contract for the shipping, transhipping, embarking, receiving, detaining, or confining on board of any ship, vessel, or boat, slaves or other persons, for the purpose of their being carried away or removed, as or in order to their being dealt with as slaves; or to ship, tranship, embark, receive, detain, or confine on board, or to contract for the shipping, transhipping, embarking, receiving, detaining, or confining on board of any ship, vessel, or boat, slaves or other persons, for the purpose of their being imported or brought into any place whatsoever as or in order to their being dealt with as slaves; or to fit out, man, navigate, equip, despatch, use, employ, let, or take to freight, or on hire, or to contract for the fitting out, manning, navigating, equipping, despatching, using, employing, letting, or taking to freight or on hire, any ship, vessel, or boat, in order to accomplish any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful; or to lend or advance, or become security for the loan or advance, or to contract for the lending or advancing, or becoming security for the loan or advance of money, goods, or effects employed or to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful; or to become guarantee or security, or to contract for the becoming guarantee or security, for agents employed or to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful; or in any other manner to engage or to contract to engage directly or indirectly therein as a partner, agent, or otherwise; or to ship, tranship, lade, receive, or put on board, or to contract, for the shipping, transhipping, lading, receiving, or putting on board of any ship, vessel, or boat, money, goods, or effects to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful; or to take the charge or command, or to navigate or enter and embark on board, or to contract for the taking the charge or command, or for the navigating or entering and embarking on board of any ship, vessel, or boat, as captain, master, mate, petty officer, surgeon, supercargo, seaman, marine, or servant, or in any other capacity, knowing that such ship, vessel, or boat is actually employed, or is in the same voyage, or upon the same occasion, in respect of which they shall so take the charge or command, or navigate or enter and embark, or contract so to do as aforesaid, intended to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful; or to insure or to contract for the insuring of any slaves, or any property, or other subject matter, engaged or employed or intended to be engaged or employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful.

3. PENALTY FOR DEALING IN SLAVES, OR EXPORTING OR IMPORTING THEM, &c.—If any persons shall deal or trade in, purchase, sell, barter, or transfer, or contract for the dealing or trading in, purchase, sale, barter, or transfer of slaves, or persons intended

to be dealt with as slaves; or shall carry away or remove or contract for the carrying away or removing of slaves or other persons, as or in order to their being dealt with as slaves; or shall import or bring or contract for the importing or bringing into any place whatsoever slaves or other persons as or in order to their being dealt with as slaves; or shall ship, tranship, embark, receive, detain, or confine on board, or contract for the shipping, transhipping, embarking, receiving, detaining, or confining on board of any ship, vessel, or boat, slaves or other persons, for the purpose of their being carried away or removed, as or in order to their being dealt with as slaves; or to ship, tranship, embark, receive, detain, or confine on board, or contract for the shipping, transhipping, embarking, receiving, detaining, or confining on board of any ship, vessel, or boat slaves or other persons, for the purpose of their being imported or brought into any place whatsoever, as or in order to their being dealt with as slaves; then and in every such case the persons so offending, and their procurers, counsellors, aiders, and abettors, shall forfeit and pay for every such offence the sum of one hundred pounds of lawful money of Great Britain for each and every slave so dealt or traded in, purchased, sold, bartered, or transferred, carried away, removed, imported, brought, shipped, transhipped, embarked, received, detained, or confined on board, or so contracted for as aforesaid; the one moiety thereof to the use of his Majesty, and the other moiety to the use of any person who shall inform, sue, and prosecute for the same; and all property or pretended property in such slaves or persons as aforesaid shall also be forfeited, and the said slaves or persons shall and may be seized and prosecuted as herein-after is mentioned and provided.

4. Ships fitted out for Slave Trade to be forfeited.—If any persons shall fit out, man, navigate, equip, despatch, use, employ, let or take to freight or on hire, or contract for the fitting out, manning, navigating, equipping, despatching, using, employing, letting, or taking to freight or on hire, any ship, vessel, or boat, in order to accomplish any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful, such ship, vessel, or boat, together with all her boats, guns, tackle, apparel, and furniture, and together likewise with all property, goods, or effects found on board belonging to the owner or owners, part owner or part owners of any such ship, vessel, or boat, shall become forfeited, and may and shall be seized and prosecuted as herein-after is mentioned and provided.

5. Penalty for embarking Capital in the Slave Trade, &c.—If any persons shall knowingly and wilfully lend or advance, or become security for the loan or advance, or shall contract for the lending or advancing, or becoming security for the loan or advance of money, goods, or effects employed or to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful, then and in every such case the persons so offending, and their procurers, counsellors, aiders, and abettors, shall forfeit and pay for every such offence double the value of all the money, goods, and effects so lent, advanced, or secured or so contracted for as aforesaid, to be recovered and applied as is herein-after mentioned and provided.

6. Penalty for guaranteeing Slave Adventures.—If any persons shall knowingly and wilfully become guarantee or security, or contract for the becoming guarantee or security, for agents employed or to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful, or shall in any other manner engage or contract to engage directly or indirectly therein as a partner, agent, or otherwise, then and in every such case the persons so offending, and their procurers, counsellors, aiders, and abettors, shall forfeit and pay for every such offence double the value of all the money, goods, and effects so by them secured or contracted so to be as aforesaid, to be recovered and applied as is herein-after mentioned and provided.

7. Penalty for shipping Goods, &c. to be employed in the Slave Trade.—If any person shall knowingly and wilfully ship, tranship, lade, receive, or put on board, or contract for the shipping, transhipping, lading, receiving, or putting on board of any ship, vessel, or boat, any money, goods, or effects to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful, then and in every such case the persons so offending, and their procurers, counsellors, aiders, and abettors, shall forfeit and pay for every such offence double the value of all the money, goods, and effects so shipped,

transhipped, laden, received, or put on board, or contracted so to be as aforesaid, to be recovered and applied as is herein-after mentioned and provided.

8. Penalty for insuring Slaves or Slave Adventures.—If any person shall knowingly and wilfully insure or contract for the insuring of any slaves, or any property or other subject matter engaged or employed, or intended to be engaged or employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful, then and in every such case the person so offending, and their procurers, counsellors, aiders, and abettors, shall forfeit and pay for every such offence the sum of one hundred pounds of lawful money of Great Britain for every such insurance or contract for the same, and also treble the amount of the premium of any such insurance or contract for the same, the one moiety thereof to the use of his Majesty, and the other moiety to the use of any person who shall inform, sue, and prosecute for the same, and every such insurance shall be absolutely null and void.

9. Subjects of his Majesty, &c. dealing in Slaves on the High Seas, &c. to be deemed guilty of Piracy.—If any subject or subjects of his Majesty, or any person or persons residing or being within any of the dominions, forts, settlements, factories, or territories now or hereafter belonging to his Majesty, or being in his Majesty's occupation or possession, or under the government of the United Company of Merchants of England trading to the East Indies, shall, upon the high seas, or in any haven, river, creek, or place where the admiral has jurisdiction, knowingly and wilfully carry away, convey, or remove or aid, or assist in carrying away, conveying, or removing, any person or persons as a slave or slaves, or for the purpose of his, her, or their being imported or brought as a slave or slaves into any island, colony, country, territory, or place whatsoever, or for the purpose of his, her, or their being sold, transferred, used, or dealt with as a slave or slaves, or shall upon the high seas, or within the jurisdiction aforesaid, knowingly and wilfully ship, embark, receive, detain, or confine, or assist in shipping, embarking, receiving, detaining, or confining, on board any ship, vessel, or boat, any person or persons for the purpose of his, her, or their being carried away, conveyed, or removed as a slave or slaves, or for the purpose of his, her, or their being imported or brought as a slave or slaves into any island, colony, country, territory, or place whatsoever, or for the purpose of his, her, or their being sold, transferred, used, or dealt with as a slave or slaves, then and in every such case the person or persons so offending shall be deemed and adjudged guilty of piracy, felony, and robbery, ...

S. 9 *in part rep.* 51 & 52 *Vict. c.* 57 (*S.L.R.*).

10. Persons dealing in Slaves or removing or exporting or importing Slaves; or fitting out Slave Ships; or embarking Capital, &c. in the Slave Trade; or guaranteeing Slave Adventurers; or shipping Goods, &c. to be employed in the Slave Trade; or serving on board Slave Ships as Captain, Master, Surgeon, &c.; or insuring Slaves or Slave Adventures; or forging Instruments relating to the Slave Laws; declared guilty of Felony, &c.—If any persons shall deal or trade in, purchase, sell, barter, or transfer, or contract for the dealing or trading in, purchase, sale, barter, or transfer of slaves or persons intended to be dealt with as slaves, or shall carry away or remove, or contract for the carrying away or removing of slaves or other persons, as or in order to their being dealt with as slaves, or shall import or bring, or contract for the importing or bringing into any place whatsoever slaves or other persons, as or in order to their being dealt with as slaves, or shall ship, tranship, embark, receive, detain, or confine on board, or contract for the shipping, transhipping, embarking, receiving, detaining, or confining on board of any ship, vessel, or boat, slaves or other persons for the purpose of their being carried away or removed, as or in order to their being dealt with as slaves; or shall ship, tranship, embark, receive, detain, or confine on board, or contract for the shipping, transhipping, embarking, receiving, detaining, or confining on board of any ship, vessel, or boat, slaves or other persons, for the purpose of their being imported or brought into any place whatsoever, as or in order to their being dealt with as slaves; or shall fit out, man, navigate, equip, despatch, use, employ, let, or take to freight or on hire, or contract for the fitting out, manning, navigating, equipping, despatching, using, employing, letting, or taking to freight or on hire any ship, vessel, or boat, in order to accomplish any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared

unlawful; or shall knowingly and wilfully lend or advance, or become security for the loan or advance, or contract for the lending or advancing, or becoming security for the loan or advance, of money, goods, or effects employed or to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful; or shall knowingly and wilfully become guarantee or security, or contract for the becoming guarantee or security, for agents employed or to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful, or in any other manner to engage or to contract to engage directly or indirectly therein as a partner, agent, or otherwise; or shall knowingly and wilfully ship, tranship lade, receive, or put on board, or contract for the shipping, transhipping, lading, receiving, or putting on board of any ship, vessel, or boat, money, goods, or effects to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful; or shall take the charge or command, or navigate, or enter and embark on board, or contract for the taking the charge or command, or for the navigating or entering and embarking on board of any ship, vessel, or boat, as captain, master, mate, surgeon, or supercargo, knowing that such ship, vessel, or boat is actually employed or is, in the same voyage or upon the same occasion in respect of which they shall so take the charge or command, or navigate or enter and embark, or contract so to do as aforesaid, intended to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful; or shall knowingly and wilfully insure or contract for the insuring of any slaves, or any property or other subject matter engaged or employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful; or shall wilfully and fraudulently forge or counterfeit any certificate, certificate of valuation, sentence or decree of condemnation or restitution, copy of sentence or decree of condemnation or restitution, or any receipt (such receipts being required by this Act), or any part of such certificate, certificate of valuation, sentence or decree of condemnation or restitution, copy of sentence or decree of condemnation or restitution, or receipt as aforesaid; or shall knowingly and wilfully utter or publish the same, knowing it to be forged or counterfeited, with intent to defraud his Majesty, or any other person or persons whatsoever, or any body politic or corporate; then and in every such case the person or persons so offending, and their procurers, counsellors aiders, and abettors, shall be and are hereby declared to be felons, and shall be transported beyond seas for a term not exceeding fourteen years, or shall be confined and kept to hard labour for a term not exceeding five years, nor less than three years, at the discretion of the court before whom such offender or offenders shall be tried and convicted.

11. Seamen, &c. serving on board such Ships declared guilty of a Misdemeanor, &c.—If any persons shall enter and embark on board, or contract for the entering and embarking on board of any ship, vessel, or boat, as petty officer, seaman, marine, or servant, or in any other capacity not herein-before specifically mentioned, knowing that such ship, vessel, or boat is actually employed or is, in the same voyage or upon the same occasion in respect of which they shall so enter and embark on board, or contract so to do as aforesaid, intended to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful, then and in every such case the persons so offending, and their procurers, counsellors, aiders, and abettors, shall be and they are hereby declared to be guilty of a misdemeanor only, and shall be punished by imprisonment for a term not exceeding two years.

12. Making any offence Piracy, Felony, &c. shall not affect the provisions of this Act, imposing Forfeitures or Penalties for any such offence.—Provided always, that nothing in this Act contained, making piracies, felonies, robberies, and misdemeanors of the several offences aforesaid, shall be construed to repeal, annul, or alter the provisions and enactments in this Act also contained, imposing forfeitures and penalties or either of them upon the same offences, or to repeal, annul, or alter the remedies given for the recovery thereof; but that the said provisions and enactments imposing forfeitures and penalties shall in all respects be deemed and taken to be in full force, ...

S. 12 *in part rep.* 36 *&* 37 *Vict. c.* 88, *s.* 30.

[*Ss.* **13–38** *rep.* 36 *&* 37 *Vict. c.* 88, *s.* 30.]

39. Mortgages, &c. given for purposes hereby declared unlawful shall be void, except in case of bonâ fide Purchasers of negotiable Securities without notice.—Every mortgage, bond, bill, note, or other security, made in or to accomplish any of the objects, or the contracts in relation to the objects, which objects and contracts have by this Act been declared unlawful, shall, except in the case of a bonâ fide purchaser or holder of any such of the said securities as are in their nature negotiable, who may have purchased or obtained the same without notice that the same were made or given for any such unlawful purposes, be void.

40. Offenders giving Information against Owners of Vessels, &c. to be exempted from Penalties.—Provided always, that if any person or persons offending as a petty officer, seaman, marine, or servant, against any of the provisions of this Act, shall, within two years after the offence committed, give information on oath before any competent magistrate against any owner or part owner, or any captain, master, mate, surgeon, or supercargo of any ship or vessel, who shall have committed any offence against this Act, and shall give evidence on oath against such owner or part owner, captain, master, mate, surgeon, or supercargo, before any magistrate or court before whom such offender may be tried; or if such person or persons so offending shall give information to any of his Majesty's ambassadors, ministers plenipotentiary, envoys, chargés d'affaires, consuls, residents, or other agents, so that any person or persons, owning such ship or vessel, or navigating or taking charge of the same, as captain, master, mate, surgeon, or supercargo, may be apprehended; such person or persons so giving information and evidence shall not be liable to any of the pains or penalties under this Act incurred in respect of his offence, and his Majesty's ambassadors, ministers plenipotentiary, envoys, chargés d'affaires, consuls, residents, or other agents, are hereby required to receive any such information as aforesaid, and to transmit the particulars thereof, without delay, to one of his Majesty's principal secretaries of state, and to transmit copies of the same to the commanders of his Majesty's ships or vessels then being in the said port or place.

[*Ss.* **41–46** *rep.* 36 *&* 37 *Vict. c.* 88, *s.* 30.]

47. Limitation of Suits, &c. for Penalties and Forfeitures—No Limitation to Suits for condemnation and forfeiture of Slaves illegally imported.—All actions, suits, bills, indictments, or informations, for the recovery of any of the penalties or forfeitures under this Act, may be commenced, had, brought, sued, exhibited, or prosecuted at any time within five years after the offence committed, by reason whereof such penalty or forfeiture shall be incurred: Provided always, that where any slave or slaves have been, or shall at any time have been illegally imported, nothing herein contained shall extend to prevent proceeding being commenced to obtain the condemnation or forfeiture thereof, but that the said slave or slaves so illegally imported shall and may be condemned and forfeited at any time after such illegal importation.

[*Residue of Act, ss.* **48–82**, *rep.* 36 *&* 37 *Vict. c.* 88, *s.* 30.]

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6 GEORGE 4, 1825.

CHAPTER VII.

The House Tax Act, 1825 (*Short Titles Act*, 1896).

An Act for the further Repeal of certain Duties of Assessed Taxes, and for granting Relief in the Cases therein mentioned. [23d March 1825.]

[*Preamble recites* 4 *Geo.* 4, *c.* 11.]

[*S.* **1** (*repealing duties under* 48 *Geo.* 3, *c.* 55) *rep.* 32 *&* 33 *Vict. c.* 14, *s.* 39.]

2. Discharge of Duty on Houses becoming unoccupied, although not at the expiration of the Occupier's Lease or Demise—Houses built or completed and occupied after the Yearly Assessments for a portion of the year only to be

CHARGED FOR THAT PORTION IF NOTICE OF COMMENCEMENT OF OCCUPATION BE GIVEN—IN DEFAULT OF NOTICE, OR IF OCCUPATION COMMENCE IN FIRST QUARTER OF YEAR OF ASSESSMENT, THE ASSESSMENTS TO BE PAYABLE FOR THE WHOLE YEAR.—[*Recital*] Where the occupier or tenant of any dwelling house, cottage, or tenement, chargeable with duty, shall quit the same after an assessment shall be made, and such occupier shall give notice thereof, on so quitting, to the assessor, in the manner directed by the said Acts, the duty thereon shall be discharged by the commissioners for executing the said Acts and this Act, for the particular quarter or quarters of the year of such assessment during which it shall appear to the said commissioners such house, cottage, or tenement shall have continued for each entire quarter wholly empty and unoccupied, and although any such quitting shall not have taken place on the actual determination of the lease or demise by which such occupier or tenant held the premises, in the manner described by the said Act passed in the forty-eighth year aforesaid: Provided also, that where any house, cottage, or tenement shall not have been built or otherwise completed for occupation at the time of making the assessments yearly, as directed by the said Acts, and the same shall, after the expiration of the first or of any succeeding quarter of the year, become occupied during a portion only of the year of assessment, such house, cottage, or tenement shall, on notice of the commencement of occupation, to be given by the occupier in the manner directed by the said Act, be assessed and charged with the said duties for that part only of the year of assessment during which such house, cottage, or tenement shall be actually occupied, to wit, from the end of the quarter of the year preceding such occupation: . . . Provided always, and in every case of default of notice of the commencement of occupation, . . . as directed by the said Acts in the cases herein mentioned, and also in every case where any house, cottage, or tenement shall become occupied . . . within and before the expiration of the first quarter of the year of assessment, the assessments or amended assessments herein directed shall be made and payable for the whole of the year within which such occupation shall have commenced, . . . ; all which assessments shall be made, amended, levied, and collected by the like rules as any assessment to the said duties is directed to be made, amended, levied, and collected under the directions of the said Acts; anything in the said Acts or this Act contained to the contrary notwithstanding.

S. 2 *in part rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*), *and* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).

3. AN UNFURNISHED HOUSE BONÂ FIDE QUITTED BY THE OWNER OR TENANT, SHALL BE DEEMED AN UNOCCUPIED HOUSE, AND NOT LIABLE TO ASSESSMENT, THOUGH COMMITTED TO A PERSON OR SERVANT TO AIR AND TAKE CARE THEREOF—SUCH HOUSE ON BECOMING OCCUPIED SHALL BE ASSESSED—IF ANY HOUSE BECOMES UNOCCUPIED AFTER THE ASSESSMENT IS MADE, IT MAY BE DISCHARGED.—Any house or tenement from which the owner or occupier shall have bonâ fide removed, and which shall be wholly unfurnished at the time of making the assessment, shall be deemed and taken to be unoccupied, and not liable to assessment, although such house or tenement shall or may be left or committed to the care or charge of a person or servant who shall or may have been placed and shall dwell therein solely for the purpose of airing the same, and of preventing depredation or injury to the premises during the period of their being so unoccupied: Provided always, and every such house or tenement shall afterwards and within the year of assessment be liable to be brought into charge for the whole or a portion of the year, and shall be assessed in the manner directed by the said Acts, on the same coming into the possession or occupation of any other person or persons, according to the rules and provisions of the said Acts; and where any such house or tenement shall become unoccupied in manner aforesaid at any time after the commencement of the year, and after an assessment made thereon, it shall be lawful for the respective commissioners, on due notice thereof by the owner or tenant, as in the other cases herein-before provided, to discharge such assessment for the entire quarter or quarters of the year during which it shall appear to the said commissioners such house or tenement shall have so continued wholly unfurnished and unoccupied, save and except by a person or servant for the purposes aforesaid; anything in the said Acts or in this Act contained to the contrary notwithstanding.

[*Ss.* **4**, **5** *rep.* 32 *&* 33 *Vict. c.* 14, *s.* 39; *s.* **6** *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*); *s.* **7** *rep.* 51 *&* 52 *Vict. c.* 57 (*S.L.R.*); *ss.* **8–10** *rep.* 32 *&* 33 *Vict. c.* 14, *s.* 39; *s.* **11** *rep.* 43 *&* 44 *Vict. c.* 19, *s.* 4; *ss.* **12–14** *rep.* 32 *&* 33 *Vict. c.* 14, *s.* 39.]

CHAPTER XXII.

THE JURORS (SCOTLAND) ACT, 1825 (*Short Titles Act*, 1896).

AN ACT to regulate the Qualification and the Manner of enrolling Jurors in Scotland, and of choosing Jurors on Criminal Trials there; and to unite Counties for the Purposes of Trial in Cases of High Treason in Scotland.

[20th May 1825.]

[*Preamble.*]

1. QUALIFICATION OF JURORS.—Every man, except as herein-after excepted, being between the ages of twenty-one and sixty years, residing in any county in Scotland, being qualified to serve as a juror in terms of an Act passed in the sixth year of the reign of her Majesty Queen Anne, intituled "An Act for settling and establishing a "Court of Exchequer in the north part of Great Britain called Scotland"; videlicet, every such man at the time of the trial on which he may be required to serve having and being seised in his own right, or in the right of his wife, of lands or tenements, of an estate of inheritance, or for his or her life, within the county or shire, city or place, from whence the jury is to come, of the yearly value of five pounds at the least, or shall be then worth in goods, chattels, and personal estate, the sum of two hundred pounds sterling at least, shall be qualified and shall be liable to serve on juries in Scotland, before any court there, civil or criminal, competent to try causes by jury.

2. WHO SHALL BE EXEMPTED FROM BEING RETURNED OR SERVING ON JURIES.—Provided always, that all peers, all judges of the supreme courts, including the judge admiral and commissaries of Edinburgh, all sheriffs of counties, all magistrates of royal burghs, all ministers of the established church, and all other ministers of religion, who shall have duly taken and subscribed the oaths and declaration required by law, and whose place of meeting shall be duly registered, and all parochial schoolmasters, also all advocates practising as members of the faculty of advocates, all writers to the signet practising as such, all solicitors practising before any of the supreme courts, all procurators practising before any inferior court, having severally taken out their annual certificates, all clerks or other officers of any court of justice actually exercising the duties of their offices, all gaolers or keepers of houses of correction, all professors in any university, all physicians and surgeons duly qualified as such, and actually practising, all officers in his Majesty's navy or army in full pay, all officers of customs or excise, all messengers at arms, and other officers of the law, shall be and are hereby freed and exempted from being returned, and from serving upon juries.

3. ROLLS OF JURORS WHEN AND HOW TO BE MADE UP.—The sheriff of each county shall, on or before the first day of January one thousand eight hundred and twenty-six, make up a roll of persons within his county who are qualified as aforesaid, and liable to serve as jurors; and the names and designations of all such persons shall be entered in a book, to be called "the general jury book," to be kept in the sheriff clerk's office of each county, and to be open on all lawful days to the inspection and examination of any person who shall require such inspection, on payment of a fee of one shilling.

4. PROVISION FOR SPECIAL JURIES.—As soon as such roll or list of jurors, qualified as aforesaid, shall have been made up and inserted in the said general jury book, the sheriff of every county shall select therefrom the names of all persons qualified to be special jurors, in terms of an Act passed in the fifty-fifth year of the reign of his late Majesty King George the Third, intituled "An Act to facilitate the administration of "justice in that part of the United Kingdom called Scotland, by the extending of trial "by jury to civil causes"; and such names so selected shall be entered in a book to be called "the special jury book," to be kept in the sheriff clerk's office of each county and to be open for inspection as herein directed with regard to the general jury book; and the persons whose names shall be entered in such special jury book shall be liable to serve as special jurors in all civil causes ordered to be tried by special juries, and on all criminal trials as herein-after directed; provided always, that the names of persons so selected as aforesaid for special jurors shall, notwithstanding thereof, remain in the said general jury book.

5. PROVISION WITH RESPECT TO THE COUNTIES OF EDINBURGH AND LANARK.—Provided always, that the sheriff of the county of Edinburgh, in entering the names of

jurors, as well in the general as in the special jury book as aforesaid, shall divide the same into three separate parts, one containing the names of persons residing in the city of Edinburgh and its environs, in so far as the same are comprehended within the bounds of police, as defined by an Act passed in the third year of the reign of his present Majesty, intituled "An Act for watching, cleansing, and lighting the streets of "the city of Edinburgh and adjoining districts, for regulating the police thereof, and "for other purposes relating thereto"; another part containing the names of those residing in the town of Leith and its environs, as comprehended within the bounds of the police thereof; and a third part containing the names of those residing in the rest of the county of Edinburgh; and that the sheriff of the county of Lanark shall in like manner divide the names of jurors as aforesaid into two parts, the one containing the names of persons residing in Glasgow, including Anderston, Gorbals, and the Calton, and the other containing the names of those residing in the rest of the county of Lanark.

6. Sheriffs of Haddington and Linlithgow to send Lists to the Sheriff of Edinburgh.—The sheriffs of Haddington and Linlithgow shall, on or before the eighth day of January one thousand eight hundred and twenty-six, transmit certified copies of the lists, both general and special, so made up by them, to the sheriff of Edinburgh; from which shall be taken the names of jurors when required, as directed by this Act.

7. Number of Jurors to be returned by the Sheriff of Edinburgh from the three Divisions of that County and from Haddington and Linlithgow, for Trials in Edinburgh—Proportion of persons qualified as Special Jurors to be returned for Criminal Trials.—When the attendance of jurors is required for trials before the High Court of Justiciary at Edinburgh, or before the Court of Exchequer, or judge admiral, or in the jury court, when held in Edinburgh, notices, writs, or precepts shall be issued from the said respective courts to the sheriff of Edinburgh, specifying the number of jurors required; and the said sheriff shall thereupon return a list taken from the said general jury book, in the order in which they therein appear, subscribed by him, containing the number of persons required, which return, when made to the High Court of Justiciary or to the judge admiral, where forty-five jurors are required, shall contain twenty-four for the city of Edinburgh, six for the town of Leith, six for the remainder of the county of Edinburgh, four for the county of Linlithgow, and five for the county of Haddington, or as near as may be in these proportions, according to the number required, more or less than forty-five: Provided always, that in all criminal trials one-third of the number required, or if the number required cannot be divided equally into thirds, a number as nearly as can be to a third, more or less, at the discretion of the sheriff, shall be persons qualified as special jurors, and shall be distinguished in the return accordingly: Provided, that in the event of the list so to be taken from the general jury book not being found to contain the said proportion of special jurors, the deficiency shall be supplied by names to be taken from the special jury book; and this rule shall in like manner be observed in regard to returns from all other counties.

8. Number of Jurors to be returned from other Counties for Trials on Circuit.—When the attendance of jurors at the circuits is required, notice shall be given by the clerk of court to the sheriffs of the counties, within the circuit, of the number of jurors required; and each sheriff shall thereupon return to the said clerk a list subscribed by him, taken from the general and special jury books aforesaid, containing the number of persons so required; which return, where forty-five jurors are required, shall contain ten for the county of Berwick, seven for the county of Peebles, eight for the county of Selkirk, twenty for the county of Roxburgh, thirty for the county of Dumfries, fifteen for the stewartry of Kircudbright, ten for the county of Wigton, thirty-five for the county of Ayr, ten for the county of Renfrew, twenty-one for the city of Glasgow, Anderston, Gorbals, and the Calton, nine for the rest of the county of Lanark, five for the county of Dumbarton, ten for the county of Bute, thirty-five for the county of Argyle, twenty-five for the county of Stirling, ten for the county of Clackmannan, ten for the county of Kinross, fifteen for the county of Perth, fifteen for the county of Fife, fifteen for the county of Forfar, ten for the county of Kincardine, twenty-five for the county of Aberdeen, ten for the county of Banff, six for the county of Elgin, six for the county of Nairn, eighteen for the county of Inverness, nine for the county of Ross and Cromarty, three for the county of Sutherland, and three for the county of Caithness; and wherever a greater number than forty-five jurors shall be required, the numbers in the return aforesaid shall be increased according to the

proportions above specified: Provided always, that it shall be competent for the Court of Justiciary, as circumstances may require, to alter these proportions by act of adjournal.

9. Provision for Jurors on Criminal Trials in Inferior Courts.—In all criminal trials in any inferior court the clerk of such court shall be furnished with names from the jury books of the county in which the court is held, containing the number of persons required, one-third being persons qualified as special jurors.

10. Order in which names of Jurors are to be taken.—Provided always, that the sheriffs, in all returns of jurors made by them to any court whatsoever, shall take the names in regular order, beginning at the top of the lists in the said jury books, in each of the counties and districts foresaid respectively, as required; and as often as any juror shall be returned to them, they shall mark or cause to be marked, in the said general jury book of their respective counties, and also in the special jury book in the case of special jurors, the date when any such juror shall have been returned to serve; and in all such returns they shall commence with the name immediately after the last in the preceding return, without regard to the court to which the return was last made, and taking the subsequent names in the order in which they shall have been entered, as herein directed, and so to the end of the lists respectively.

11. Lists of Jurors to be renewed.—The sheriff of every county shall prepare, in the manner herein directed, new and correct lists of jurors, in such time as the same may be completed, and entered in books as aforesaid, to be deposited in the sheriff clerk's office, before the first lists shall have been completely gone through; and so soon as the whole names contained in any of the former lists shall have been returned to serve as jurors, the sheriff shall proceed to take the names of those required from the new lists so prepared, beginning at the top, and proceeding regularly to the end as herein directed; and as often as and immediately before any list shall have been completely gone through, a new list shall be prepared and entered in books as aforesaid, and be made use of in the manner herein directed.

12. Return of Jurors where the majority must be landed men.—Where a person shall by law be entitled to the privilege of having a majority of landed men for jurors on his trial, the sheriff, when required, shall make a return of names of landed men, in the order in which such names appear in the books aforesaid, so that a majority of the jurors contained in such return shall be landed men.

13. Jurors as returned to serve on Trials.—The lists returned as herein directed by the sheriffs to the clerks of court, and none other, shall be used for the several trials for which the same shall have been required.

14. Penalty on Sheriffs making up Lists and returning Jurors contrary to the Provisions of this Act—No Irregularity in Lists, &c. to be an objection to Jurors in case of any person accused of Crime.—Every instance of wilful and unwarranted departure on the part of any sheriff from the provisions of this Act in regard to the making up of lists, and of returning of jurors to any court, shall subject such sheriff in a penalty of fifty pounds, to be recovered by summary complaint before the High Court or Circuit Court of Justiciary; one half of which penalty shall belong to his Majesty, and the other half to the party suing for the same: Provided always, that no irregularity in making up the lists as herein directed, or in transmitting the same, or in the warrant of citation, or in summoning jurors, or in returning any execution or citation, shall constitute an objection to jurors whose names shall be served on any person accused of any crime, reserving always to the court to judge of the effect of an objection founded on any felonious act by which jurors may be returned to serve in any case contrary to the provisions of this Act.

15. Provision for summoning more than forty-five Jurors on a Criminal Trial.—It shall and may be lawful for the lord justice clerk, or any one of the lords commissioners of Justiciary, and they are hereby authorized and empowered, at any time to direct to be summoned as jurors to serve on any criminal trial in the High Court or Circuit Court of Justiciary, any such number of persons exceeding forty-five as may be deemed necessary; and it is hereby provided, that the warrants for summoning jurors shall only require the signature of one of the said judges, and it shall not be necessary to annex a copy of the signature of such judge to the list of assize served on the accused.

16. Peremptory Challenges allowed in Criminal Trials—Limitations in case of Special Jurors.—It shall be lawful for each person on trial before any criminal court to challenge five of the jurors, and also for the prosecutor to challenge five of the jurors

in all, for any one trial, without being obliged to assign any reason therefor; and which challenge shall be made when the name of each juror is drawn as herein directed, and shall not afterwards be allowed, and such challenge shall of itself disqualify the person or persons challenged from serving as a juror or jurors on such trial: Provided always, that of the five special jurors to be chosen not more than two shall be allowed to be so challenged by each person accused, or by the prosecutor: Provided always, that such challenges without reason assigned shall nowise deprive a person accused, or the prosecutor, of the right respectively competent to them to object to any juror or jurors on cause shewn, but declaring that if such objection shall be founded on the want of sufficient qualification as provided by this Act, such objection shall only be proved by the oath of the juror objected to; and it shall not be competent to take any objection to any juror after he shall have been sworn to serve.

17. Forty-five Jurors to be returned for Criminal Trials, and the Jury to be chosen by Ballot in open Court—Provision where the accused is a landed man.—In all criminal trials by jury the number of jurors to be returned by the sheriffs to the criminal court shall be forty-five, unless otherwise directed, as herein mentioned; and the jurors for the trial of any case shall be chosen in open court, by ballot from the lists of persons summoned, and served upon the accused; and for that purpose the clerk of court shall cause the name and designation of each juror to be written on a separate piece of paper or parchment, all the pieces being of the same size, and shall cause the pieces to be rolled up, as nearly as may be, in the same shape, and the names of the special jurors shall be put together into one box or glass, and the remainder into another, and being respectively mixed, the clerk shall draw out the said pieces of parchment or paper one by one from both boxes or glasses, in the proportion of one from the box containing the names of the special jurors and two from the other box; and if any of the persons whose names shall be so drawn shall not appear, or shall be challenged, with or without cause assigned, and set aside, then such farther number shall be drawn until the number required for the trial shall be made out; and the persons so drawn and appearing, and being sworn, shall be the jury to try the accused, and their names shall be taken down and recorded in the minute book kept by the clerk; but providing that when challenges are made and jurors set aside, their places shall be filled up with other names by drawing by ballot as aforesaid from the box or glass containing the description of jurors challenged respectively: Provided that where the accused is a landed man, and a return of jurors made accordingly, a majority of the jury for trial shall be taken by ballot from the list of landed men returned by the sheriff, as herein directed, and the remainder from the list of jurors not special, subject always to challenge as aforesaid.

18. Jurors chosen for one Trial may continue to serve.—The jurors chosen for any particular trial may, when that trial is disposed of, without any new ballot, serve on the trials of other persons accused, provided such persons and the prosecutor consent thereto, and provided also, that the names of such jurors are contained in the list of assize served on the accused, and that such jurors are duly sworn to serve on each successive trial.

19. Jurors may be excused.—The several courts foresaid shall respectively have power to excuse any one or more jurors from serving on any trial or trials, the grounds of such excuse being stated in open court.

20. Verdicts how to be returned.—All verdicts in the High Court or Circuit Court of Justiciary, and in the court of the judge admiral, and of any inferior judge, whether the jury are unanimous or not, and whether upon a consultation in the jury box or after having retired and been enclosed, shall be returned by the mouth of the chancellor of the jury, unless when the court shall direct written verdicts to be returned; and the same rules shall apply in regard to the receiving of such verdicts as are observed in the case of unanimous verdicts in the Court of Justiciary: Provided always, that in all cases of verdicts being returned by the mouth of the chancellor of the jury, where the jury shall not be unanimous in their verdict, the chancellor shall announce the same, so that an entry thereof may be made in the record; and provided also, that when in such case a jury is inclosed, none of the jurors shall be allowed to separate or to hold communication with other persons until their verdict shall have been returned in their presence by the mouth of their chancellor.

21. Union of Counties for Trials in cases of High Treason—Sittings of the Court—Return of Jurors.—[*Recital*] In all cases of high treason or misprision of high

treason in Scotland, under any commission of oyer and terminer that shall be issued by his Majesty, the counties of Edinburgh, Haddington, and Linlithgow shall be held to be one county, under the description of the county of Edinburgh, whereof the sheriff depute of Edinburgh shall be held to be sheriff; the counties of Roxburgh, Berwick, Selkirk, and Peebles shall be held to be one county, under the description of the county of Roxburgh, whereof the sheriff depute of Roxburghshire shall be held to be sheriff; the county of Dumfries and the stewartry of Kirkcudbright shall be held to be one county, under the description of the county of Dumfries, whereof the sheriff depute of Dumfriesshire shall be held to be sheriff; the counties of Ayr and Wigton shall be held to be one county, under the description of the county of Ayr, whereof the sheriff depute of Ayrshire shall be held to be sheriff; the counties of Argyle and Bute shall be held to be one county, under the description of the county of Argyle, whereof the sheriff depute of Argyleshire shall be held to be sheriff; the counties of Lanark, Dumbarton, and Renfrew shall be held to be one county, under the description of the county of Lanark, whereof the sheriff depute of Lanarkshire shall be held to be sheriff; the counties of Stirling, Clackmannan, and Kinross shall be held to be one county, under the description of the county of Stirling, whereof the sheriff depute of Stirlingshire shall be held to be sheriff; the counties of Perth, Forfar, and Fife shall be held to be one county, under the description of the county of Perth, whereof the sheriff depute of Perthshire shall be held to be sheriff; the counties of Aberdeen, Banff, and Kincardine shall be held to be one county, under the description of the county of Aberdeen, whereof the sheriff depute of Aberdeenshire shall be held to be sheriff; the counties of Inverness, Ross and Cromarty, Elgin and Nairn, Sutherland and Caithness, and the stewartries of Orkney and Zetland, shall be held to be one county, under the description of the county of Inverness, whereof the sheriff depute of Invernesshire shall be held to be sheriff: And it shall and may be lawful for any such commission of oyer and terminer to sit in any town or place in any of the several counties so held to be one county, whereof the county in which the treason or misprision of treason may have been committed is one, and there to inquire into and determine all treasons and misprisions of treason committed in any of the several counties so held to be one county, in the same way as such commission might inquire into and determine any treasons or misprisions of treason committed in the place or county in which such commission may so sit; and upon precepts being issued by any such commission of oyer and terminer to any of the foresaid sheriffs or their substitutes respectively of Edinburgh, Roxburgh, Dumfries, Ayr, Argyle, Lanark, Stirling, Perth, Aberdeen, or Inverness, such sheriff or his substitute shall be entitled to require that certified copies of all lists of jurors made up within the several counties of which he is to be held as sheriff be transmitted to him, and he shall thereupon return such a number of qualified persons to serve on grand and petit juries as shall be required, pursuant to the said commission; and the said sheriffs shall in virtue of said precepts give notice to all sheriffs, justices of peace, chief constables, ministers, and officers of the said counties, to do and execute such things as shall be required of them, for all which purposes, and for performing whatever else may be required of them by the said commission, the warrant of any such sheriff or his substitute shall be equally good and effectual within the said several counties of which he is hereby declared to be sheriff as if such warrant had applied only to the particular county over which the jurisdiction of such sheriff in other respects extends: Provided always, that nothing in this Act contained shall be held to apply to trials of high treason or misprision of high treason, save and except in so far as relates to the union of counties herein-before made.

[*S.* **22** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

CHAPTER XXIII.

THE SHERIFF COURTS (SCOTLAND) ACT, 1825 (*Short Titles Act*, 1896).

AN ACT for the better Regulation of the Sheriff . . . and Burgh Courts of Scotland. [20th May 1825.]

Title in part rep. 53 & 54 *Vict. c.* 51 (*S.L.R.*).

[*Preamble recites that commissioners were appointed by warrant of the Prince Regent dated 8th February* 1815, *and have made several reports.*]

1. COURTS OF SESSION AND JUSTICIARY TO REVISE ACT OF SEDERUNT AND ACT OF ADJOURNAL, MADE IN 1748, AS TO FEES IN SHERIFF COURTS IN CIVIL AND CRIMINAL CAUSES.—Power shall be given to the Court of Session in Scotland, and the said court is hereby directed, required, and empowered, to revise the act of sederunt passed on the sixteenth day of March one thousand seven hundred and forty-eight, and of new to take into their consideration what fees they shall judge reasonable hereafter to be exacted by the clerks, or by the practitioners or officers in the courts of sheriffs in civil causes, and in all the various departments of business in use to be exercised by them, or which may be hereafter from time to time committed to them, and to regulate the same by one or more act or acts of sederunt to be passed from time to time as the court shall see cause, the said court in so doing always taking into consideration the report of the said commissioners herein-before mentioned in that behalf; and the Court of Justiciary are hereby directed, required, and empowered in like manner to revise the act of adjournal passed on the twenty-first day of March one thousand seven hundred and forty-eight, and of new to take into their consideration what fees they shall judge reasonable hereafter to be paid to the clerks, practitioners, or officers in sheriffs courts in criminal causes, and to regulate the same, as also the course of proceeding in criminal causes before the same, by one or more act or acts of adjournal to be passed by them from time to time as they shall see cause; which fees, as regulated by the said courts respectively, shall be binding on all parties concerned, unless or until the same be altered by any new act or acts of sederunt or adjournal, which the said Court of Session or Court of Justiciary may see proper and necessary to pass in time coming.

2. COURT OF SESSION TO FRAME REGULATIONS AS TO ABRIDGING EXTRACTS OF DECREES IN SHERIFF COURTS, AND FOR THE CONSIGNATION OF MONEY RECEIVED ON PROCEEDINGS IN SUCH COURTS—50 GEO. 3, C. 112.—The said Court of Session shall and they are hereby authorized and required to frame, or to cause to be framed, proper and suitable regulations for abridging the forms of extract of the decrees of the said sheriff courts, and also for consignation in a public bank or banking company of monies received by the sheriff clerk, or any other person, by reason of any proceeding in any such sheriff court, regard being always had to the forms for extract prescribed by an Act passed in the fiftieth year of the reign of his late Majesty King George the Third, intituled "An Act "for abridging the form of extracting decrees of the Court of Session in Scotland, and "for the regulation of certain parts of the proceedings of that court": . . . . . .

S. 2 *in part rep.* 36 & 37 *Vict. c.* 91 (*S.L.R.*).

3. FIVE SHERIFFS TO BE APPOINTED TO REPORT ON REGULATIONS AND TABLES OF FEES TO BE ADOPTED IN SHERIFF COURTS.—So soon as conveniently may be after the passing of this Act the said Court of Session shall and the said court is hereby directed and required to appoint, by a commission, duly executed by that court, five sheriffs depute for the purpose of reporting to the said court, and to the said Court of Justiciary respectively, such regulations and such tables of fees in the several sheriff courts in Scotland, as in their opinion ought to be established therein; the said court in so doing taking into consideration the reports of the said commissioners in that behalf.

4. WHEN SUCH REPORTS ARE MADE REGULATIONS AND TABLES OF FEES FOR CIVIL AND CRIMINAL CAUSES MAY BE ESTABLISHED BY ACTS OF SEDERUNT AND ADJOURNAL.—After a report or reports shall be made by the said five sheriffs to the said Court of Session and Court of Justiciary respectively, as to the several matters and things upon which they shall be directed to report, it shall and may be lawful for the said courts, or either of them, if they think fit, to require explanations or information relative to any part of such report or reports, and to have conferences thereupon with the said sheriffs; and

after being well and ripely advised in that behalf, and after having afforded an opportunity for all persons interested to be heard if they think fit, and also his Majesty's advocate in behalf of the public, it shall and may be lawful for the said Court of Session, by any act or acts of sederunt, to make and establish rules and regulations, and a table of fees for each of the said sheriff courts in civil causes, and the several persons holding offices and discharging duties therein, or persons practising before the same, with respect to all or any of the matters and things aforesaid; and in like manner it shall and may be lawful for the Court of Justiciary, by any act or acts of adjournal, to make and establish such rules and regulations, and a table of fees for each of the said sheriff courts in criminal causes, and the several persons holding offices or discharging duties therein in such cases, and all persons practising before the same therein.

5. Copies of such Acts to be transmitted to the Secretary of State, and laid before Parliament.—Provided always, that a copy of every such act of sederunt and act of adjournal, together with every regulation and table of fees to which it may or shall refer, shall be transmitted by the lord president of the Court of Session and lord justice clerk respectively, to His Majesty's secretary of state for the Home Department, who shall cause a copy thereof to be laid before each House of Parliament, at or immediately after the commencement of the then next session thereof; and after the expiration of three calendar months after the first day of such session, every such act of sederunt or act of adjournal, and regulation and table of fees established thereby, shall become in force; and thereafter every such fee shall, according to the terms of such act of sederunt or act of adjournal, be and be deemed and taken to be a legal fee, and payable and receivable as such in the manner therein directed, and no other fee shall be held to be legal or payable in any case whatsoever; regard being always had to the provision hereinbefore made with respect to any clerk in any of the said courts holding his office for life, and without prejudice nevertheless to the payment of any fee specially established by any Act or Acts of Parliament, as applicable to any particular charge or description of causes to which any such Act shall or may relate.

6. Clerks in Sheriff Courts to discharge their Duties in person.—Every person . . . who shall hereafter be appointed a clerk in the said sheriff courts, shall discharge the duties of the said office personally.

S. 6 *in part rep.* 51 & 52 *Vict. c.* 57 (*S.L.R.*).

7. Acts, Regulations, and Fees to extend to Burgh Courts.—Every such act of sederunt, and every such act of adjournal, and the regulations thereby made, and the table of fees thereby established for the said sheriff courts, shall apply to and receive effect in the courts of royal burghs in Scotland, equally as in the sheriff courts in Scotland; and the same shall extend to every person holding any office, or discharging any duty, or practising before any such burgh court: . . . . . .

S. 7 *in part rep.* 36 & 37 *Vict. c.* 91 (*S.L.R.*).

8. Copies of Acts of Sederunt and Adjournal to be transmitted to Sheriffs, and Magistrates of Burgh Courts.—So soon as any act of sederunt or act of adjournal shall have been transmitted to the secretary of state for the Home Department, as before directed, the lord president and the lord justice clerk respectively shall cause a copy of every such act of sederunt or act of adjournal to be transmitted to the sheriff of every county, and to the magistrates of every royal burgh in Scotland.

[*S.* 9 *rep.* 40 & 41 *Vict. c.* 50, *s.* 4.]

10. Sheriffs Substitute not to act as Procurator before any Court in their County, or be in Partnership with any person so practising.—In addition to the disqualification to which sheriffs substitute are subject by an Act passed in the twenty-first year of the reign of his late Majesty,[1] intituled "An Act . . . for abrogating "the practice of taking down the evidence in writing in certain criminal prosecutions, "and for making some further regulations relating to sheriffs depute or stewarts depute "and their substitute; and for other purposes therein mentioned," no sheriff substitute shall act directly or indirectly as a procurator before any court in the county of which he is sheriff substitute, or shall be in partnership with any person so practising.

S. 10 *in part rep.* 54 & 55 *Vict. c.* 67 (*S.L.R.*).

[1] Sic: *the Act referred to is* 21 *Geo.* 2, *c.* 19.

CHAPTER XLVII.

THE LEASING-MAKING (SCOTLAND) ACT, 1825 (*Short Titles Act*, 1896).

AN ACT for restricting the Punishment of Leasing-making, Sedition, and Blasphemy in Scotland. [22d June 1825.]

Whereas it is expedient that the punishment of the crimes of leasing-making, sedition, and blasphemy, as known in the law of Scotland, should be restricted; and that these crimes should be punished in the same manner as such crimes would be punished if committed in England:

PUNISHMENT FOR LEASING-MAKING, SEDITION, AND BLASPHEMY.—If any person shall henceforth be convicted of any of the aforesaid crimes, such person shall be liable to be punished only by fine or imprisonment, or both, at the discretion of the court before which such person shall be tried.

[*S.* **2** *rep.* 7 *Will.* 4 *&* 1 *Vict. c.* 5; *ss.* **3–5** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

CHAPTER XLVIII.

THE JUSTICES OF THE PEACE SMALL DEBT (SCOTLAND) ACT, 1825 (*Short Titles Act*, 1896).

AN ACT to alter and amend an Act passed in the Thirty-ninth and Fortieth Year of King George the Third, for the Recovery of Small Debts in Scotland. [22d June 1825.]

[*Preamble.*]

[*S.* **1** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

2. JUSTICES TO HEAR AND DETERMINE CAUSES ON PLAINTS NOT EXCEEDING L.5.—It shall be lawful and competent for any two or more of his Majesty's justices of the peace, in that part of Great Britain called Scotland, within their respective counties, to hear, try, and determine, as shall appear to them agreeable to equity and good conscience, all causes and complaints brought before them concerning the recovery of debts, or the making effectual any demand, and that in a summary way, as more particularly herein-after mentioned: Provided always, that the debt or demand shall not exceed the value of five pounds sterling, exclusive of expences.

3. CAUSES TO PROCEED ON COMPLAINT—WARRANT TO ISSUE FOR CITATION OF DEFENDER AND WITNESSES—COPY OF COMPLAINT, WARRANT, CITATION, AND PARTICULARS OF DEMAND TO BE DELIVERED TO THE DEFENDER—IN DEFAULT OF APPEARANCE, SECOND CITATION, &C.—All such causes shall proceed upon complaint . . . ; and the clerk of the peace, or any deputy by him appointed, or, in case he shall fail to appoint one, the clerk to be appointed within the district, as herein-after provided, shall adject to the said complaint, and on the same paper, a warrant signed by him, agreeable to the form in schedule (A.) subjoined to the present Act; which warrant shall contain an authority to any constable or peace officer for summoning the defender to appear and answer at the next meeting of the justices of the peace in the district of the county where the defender resides, or, where the meetings of the courts are held weekly, then, in the option of the pursuer, at the second or third diet of court from the date of the warrant, the said diet of court not being sooner, in either case, than upon the sixth day after the date of the citation, and also for summoning witnesses, at the instance of either party, to the same day and place: Provided always, that a copy of the said complaint and warrant, with the citation annexed, agreeable to the said schedule (A.) subjoined to this Act, and also a copy of the account, document of debt, or state of the demand, shall be delivered by a constable or peace officer to the defender personally, or left at his dwelling place; in which latter case, if the defender shall not appear at the diet of court to which he has been cited, he shall be cited a second time personally, or at his dwelling house or place of abode, upon the words de novo being either subjoined to the original complaint, and signed by any one justice

of the peace, or written in the procedure book kept by the clerk, and signed by the justices or the preses, to appear either at the next stated meeting, or at a meeting to be held by adjournment for that purpose, and fixed by the justices at the first diet, but which second meeting shall not be sooner than three days from the date of the first, with certification that if he shall fail to appear at the diet of court to which he is summoned by this second citation, he will be held as confessing the debt or justice of the demand: Provided, that if the defender has been cited for the first time to a diet of court, not sooner than twelve free days from the date of the citation, it shall be lawful for the constable or peace officer, in case the defender shall not have been personally found at the time of the first citation, to cite him a second time, either personally or at his dwelling place, to the same diet of court, on the authority of the original warrant, and without previously reporting an execution of the first citation of the court, but always under this condition and limitation, that such second citation shall not be given sooner than upon the sixth day after the date of the first citation, nor later than upon the sixth before the diet of court to which the defender is so cited for the second time; and in case the defender shall not appear at the diet to which he is so cited for the second time upon the same warrant, he shall be held as confessed in the same manner as if he had been cited personally, or cited at his dwelling place upon a warrant de novo; and the constable or peace officer shall in all cases return an execution of citation signed by him, or shall appear and give evidence upon oath of his having duly cited the defender in manner aforesaid.

S. 3 *in part rep.* 36 & 37 *Vict. c.* 91 (*S.L.R.*).

4. Constable, &c. to cite Witnesses, and to lodge a written Execution of Citation in Clerk's hands, or otherwise verify it in Court—Penalty on Witnesses not attending.—Where a constable or other peace officer shall be required by any party, whether pursuer or defender, to cite any persons as witnesses, he shall be obliged to lodge a written execution of every such citation in the clerk's hands, at or before the diet of court to which the defender has been summoned, or otherwise to verify in court the execution of citation, as the justices may see fit; and if the witnesses cited, either upon the one part or the other, do not appear at the time and place to which they are cited, it shall be competent to the party or parties to apply for a new warrant to compel their attendance at the next stated or adjourned meeting, which warrant may require them to attend in order to give evidence, under a penalty, not exceeding twenty shillings sterling, to be awarded by the justices of the peace in case of their not appearing, unless a reasonable excuse be offered and sustained, which penalty shall be payable to the party at whose instance the witness was cited, and may be recovered by him in the same form and manner as herein directed with regard to other small debts; or in the option of the justices, the witness so failing to appear after a second citation, and not sending a reasonable excuse which shall be sustained by the justices, may be imprisoned for a certain time in the county prison, not exceeding ten days: Provided, that the aforesaid penalty shall not be awarded or recoverable, or the witness be liable to the said imprisonment, unless the second citation shall have been given not later than the sixth day before the diet of court to which he has been cited.

5. Parties and Witnesses to be examined vivâ voce—Practitioners of the Law not allowed to plead.—When the parties shall appear, the said justices shall hear them vivâ voce, and examine witnesses upon oath, and also the parties by declaration or upon oath: Provided always, that no procurator, solicitor, or any person practising the law shall be allowed to appear or plead for them, either vivâ voce, or by writing, nor shall any of the pleadings, arguments, minutes, or evidence be taken down in writing, or entered on any record.

6. Defender not appearing to be held as confessing the Debt—Justices may adjourn the Cause.—If a defender who has been duly cited, whether personally, or by two citations left at his dwelling house or place of abode, shall not appear in court, either by himself, or by one of his family, or other person, not being in any case a legal practitioner or officer of court, whom the justices shall see reason in the circumstances of the case to hear on his behalf in the matter of the complaint, he shall be held as confessing the debt or justice of the demand, unless he shall by one of his family send an excuse which shall satisfy the justices that a delay ought to be granted; in which latter case, or if the absence of witnesses, or any other good reason assigned, shall move

the justices to adjourn the cause to the next stated meeting, or other day to be specially appointed, it shall be competent for them to make such adjournment, and the parties and witnesses shall be ordered then to attend.

7. Pursuer or Defender may be heard by one of his Family; or Pursuer residing at a distance, by person authorized by him in writing, not being a Law Practitioner.—Provided farther, that it shall be competent for the justices, if they shall see reason in the circumstances of the case for so doing, to allow a pursuer or defender to be heard in the matter of his complaint or defence by one of his family; or if the pursuer shall not be resident nearer than twenty miles from the place where the court is held, it shall be competent for the justices, if they shall see fit, to hear him by a person holding a written mandate or authority from him for that purpose, the said mandatory not being a procurator, solicitor, or person practising the law.

8. Where Decree pronounced in absence of Defender, he may obtain Warrant sisting Execution—Matter in question may be reheard—Where Absolvitor pronounced in absence of Pursuer, he may have the matter reheard. Where a decree has been pronounced in absence of the defender, it shall be competent for him, upon consigning the sum decerned for in the hands of the clerk, at any time before the days of the charge elapse, to obtain from the clerk a warrant signed by him, sisting execution till the next court day, and containing an authority to cite the pursuer and witnesses for both parties; and the clerk shall be bound to certify to the justices at their said next meeting the application for rehearing and the sist granted, which warrant so issued, being served by a constable or other peace officer upon the pursuer, either personally or by two citations left at his dwelling house or place of abode, in the manner provided in other cases by this Act, shall be an authority for having the matter reheard at the next court day, provided that the same shall not be sooner than the sixth day from the date of the personal citation given to the pursuer, or of the second citation left at his dwelling house or place of abode, or, if the meeting of the court shall be sooner than the sixth day from the date of such citation, then at the court day next following: And provided always, that it shall be competent for the justices to continue the sist granted in such cases from the first meeting of the court after the application for a rehearing has been made, to such time as may be necessary for the appearance of the parties in order to be reheard; and in like manner, where absolvitor has passed in absence of the pursuer, it shall be competent for him, at any time within one calendar month thereafter, upon consigning two shillings and sixpence in the hands of the clerk, to obtain a warrant, signed by the clerk, for citing the defender and witnesses for both parties, which warrant, being served by a constable or other peace officer upon the defender, either personally or by two citations left at his dwelling place, in the manner provided in other cases by this Act, shall be an authority for having the matter reheard at the next court day, or court day following, as hereby provided in the case of a rehearing at the instance of the defender; the two shillings and sixpence so deposited by the pursuer being in every case previously paid over to the defender.

9. Punishment of Constable for non-attendance of Parties or Witnesses through his default.—In case it shall be proved to the satisfaction of the justices that the non-attendance of parties or witnesses has been occasioned by any failure of duty on the part of the constable or peace officer, it shall be in the power of the said justices to punish him by a fine to the poor, or by imprisonment, the fine not exceeding twenty shillings sterling, or the imprisonment not exceeding ten days; reserving to the party injured any claim and recourse competent to him by law against the said constable or other officer for damage which he may have sustained by such neglect or violation of duty as aforesaid.

10. Clerk or Depute Clerk to enter Names and Designations of Parties, &c. in a Book, according to the form in Schedule (B.)—Decree and Warrant for execution to be made out conformable to Schedule (A.)—Execution when to issue. —The clerk or depute clerk shall keep a book, wherein shall be entered the names and designations of the parties, and whether present in court or absent at the calling of the cause, the nature and amount of the claim, and date of giving it in, the mode of citation, the several deliverances or interlocutory orders of the justices, and the final judgment or decree, with the date thereof, which last shall be signed by the justices present, or by their preses if more than two are present, the said entries by the clerk being agreeable to the tenor of the schedule or form marked (B.) annexed to the present Act, or with

such addition to the said entries as the justices of the peace in the several counties shall authorize and appoint for the better and more regular dispatch of the proceedings before them; and a copy of the said decree, containing warrant for arresting or poinding the effects of the defender, or for committing his person to prison, together with a particular note or statement of the expences, in those cases where expences have been awarded, as the same may have been incurred and are authorized by this Act, shall by the clerk be annexed to the complaint, and on the same paper with it the said copy of decree and warrant, being conformable to the schedule marked (A.) annexed to the present Act; which copy of decree and warrant, being signed by the clerk or his deputy, and delivered to the party in whose favour the same is granted, shall be a warrant for execution, after the expiration of ten free days from the date of pronouncing the decree, if the party against whom it shall have been given was personally present in court when it was pronounced, or had appeared by one of his family admitted to attend for him, or if he was not so present, execution shall only proceed after a charge of ten free days, to be given by the constable or peace officer, either by delivering a copy of the decree or judgment to the party personally, or leaving the same at his dwelling house or place of abode, to which charge the constable or officer shall make oath, if required.

11. JUSTICES MAY AWARD SUMS FOUND DUE TO BE PAID BY INSTALMENTS.—The said justices may, if they think proper, direct the sum or sums found due to be paid by instalments, weekly or monthly, according to the circumstances of the parties found liable, and under such conditions or qualifications as they shall think fit to annex.

12. EXECUTION OF POINDING BY CONSTABLE TO BE SUMMARY.—The execution of the poinding by the constable shall be summary, by carrying the effects poinded to the nearest market town or kirk town or village within the parish, and after getting the same duly appraised, in the manner to be regulated by an order of the justices for each county, at their quarter sessions, selling them between the hours of eleven and one of the clock at the cross or most public place, after one hour's notice given by a crier, by public roup, to the highest bidder, but reserving to the justices, at their quarter sessions, if they shall see fit, to appoint a different hour for the sale, not being earlier than that above mentioned, or a longer notice to be given of the time of selling, and the overplus of the price, if there shall be any after payment of the sums decerned for, and the expences, if expences are awarded, including what is allowed by this Act for the poinding and sale, shall be returned to the owner, or if the effects are not sold, the same shall be delivered over at the appraised value to the creditor, to the amount of the debt and expences, if expences are awarded, including the allowance for poinding: Provided always, that in case the place of sale is not a market town, but only a kirk town or village, the place and time of sale shall be advertised two days at least before the day of sale, at the door of the parish church, on Sunday after the forenoon service.

13. IN CASE OF EXECUTION, BY POINDING OR IMPRISONMENT, CONSTABLE TO MAKE A RETURN TO THE CLERK.—In all case[1] of execution, by poinding or imprisonment, the constable or other officer to whom the execution is committed shall on or before the next court day thereafter make a return or report to the clerk of court, either in writing or verbally, as may be required by the justices, of the date and manner of the execution, the number of assistants employed, and the sum or amount, if any, recovered since the date of the decree; and in case of a poinding, shall farther state the value at which the goods were appraised, the place and times of sale, the charges paid for conveyance of goods and for warehouse room where these charges were incurred, and the price for which the goods were sold in cases where a sale was made; or if the execution was by imprisonment, he shall in his said report state the gaol in which the debtor was incarcerated; which particulars respectively, so reported by the constable or officer, shall be entered by the clerk either in the procedure book or other books to be kept for that purpose, and be laid before the justices at their meeting next after the said report shall have been made, and shall also be exhibited by him to any person desiring inspection of the same, for such fee as shall be allowed by order of the justices, not exceeding sixpence for each time of inspection.

[1] *So in Parliament Roll.*

14. DECREE OF JUSTICES NOT SUBJECT TO ADVOCATION; NOR TO BE SET ASIDE BY ACTION OF REDUCTION EXCEPT FOR MALICE OR OPPRESSION.—The decree given by the said justices in any case competent to them by this Act shall not be subject to advocation, nor to any suspension, appeal, or other stay of execution, excepting only in the

case of consignation, as herein-before provided for the purpose of a rehearing before the justices, nor shall be set aside or altered in an action of reduction before the Court of Session, on any other ground except that of malice and oppression on the part of the justices, nor shall any such action of reduction be at all competent after the expiration of one year from the date of the decree of the justices.

15. In case of a Reduction being brought, Pursuer to find sufficient Caution.—In case of a reduction being brought within that time, on the alleged ground of malice and oppression, the pursuer shall, before the summons of reduction is called, be obliged to find sufficient caution in the hands of the clerk of court for payment of such expences as may be awarded against him.

16. Cases in which one Justice may transact Business.—Notwithstanding the provision of this Act, which requires all causes and complaints under the same to be heard, tried, and determined by two or more justices of the peace, nevertheless in case no more than one justice shall be present at the time and place appointed for a district meeting, it shall be lawful and competent for the said justice, being then and there present, to hold a court for the purpose of calling the roll of causes, of pronouncing decrees in absence, receiving returns of the executions of citations, and granting warrants for citation de novo, but for no other purposes; which decrees in absence so pronounced, and warrants de novo issued shall be equally valid and effectual as if they had been granted and issued by two or more justices then and there present.

17. Fees allowed to the Clerk and Officers.—The following and no other or higher fees shall be allowed to the clerk and officers of court; videlicet,

Clerk's Fees.

From the pursuer:	
For filling up and issuing the complaint, with warrant annexed for citing the defender and the witnesses on both sides	Sixpence.
For copy of the complaint and warrant, signed by the clerk, for service on the defender	Sixpence.
For the first time of entering in the procedure book the names and designations of the parties, the nature and amount of the claim, and such other particulars as may be directed by the justices	Sixpence.
For a warrant to cite, de novo	Fourpence.
From the defender:	
For the first appearance of each defender	Sixpence.
From the pursuer or defender (as the case may be):	
For every oath of party	One shilling.
For every oath of witness	Fourpence.
For filling up and issuing a printed or other form of decree, with warrant of execution inserted therein	Sixpence.
For a rehearing, videlicet; for receiving consignation from a defender, or the sum appointed by this Act to be deposited by a pursuer, and granting certificate thereof; granting warrant to sist, and warrant for citation of party and witnesses; entry in the procedure book; filling up and issuing the decree when required, and paying over the said consignation or deposit	One shilling and sixpence.
For inspection of the book containing reports of executions by the constables, a fee	Not exceeding sixpence each time, to be fixed by order of the justices.

Constables or Officers Fees.

From pursuer or defender (as the case may be):	
For each citation, whether of a party or witness, with execution thereof	Fourpence.
For execution of an arrestment	Sixpence.
For execution of a poinding, including the appraisement, payment of assistants, and report of the execution, as required by this Act	Three shillings.

For selling the goods pointed, including payment of assistants, and report of the sale, as required by this Act	Two shillings.
For execution against the defender's person, including payment of assistants and report of the execution, as required by this Act	Three shillings.
For every mile which the constable or officer travels, in order to give a citation or execute a decree	Fourpence.
And for each assistant, not exceeding two, where assistance is necessary	Threepence.
But no allowance for travelling shall be received, either by the officer or by assistants, where the distance does not amount to a mile; and the allowance shall only be charged once to the same party for the whole distance actually travelled in any one day	—

CRIER'S FEE.

For calling each complaint in court	One penny.

18. ABSTRACT OF TABLE OF FEES TO BE PRINTED UPON EACH COMPLAINT—TABLE OF FEES TO BE HUNG UP IN COURT ROOM AND CLERK'S OFFICE—FEES MAY BE MODIFIED IN SMALL CASES.—An abstract of the said table of fees shall be printed on each complaint, and on each copy of complaint for service, agreeably to the form marked, annexed to the present Act, or other form, to be settled by the justices of the peace; and a copy of the said table, signed by two of the justices and by the clerk, shall be suspended and continued at all times in a patent situation in the clerk's office, and in every court room or place for holding of courts under authority of this Act; and the said fees shall be subject to modification by the justices in very small cases, or where one complaint is directed against two or more defenders.

19. PUNISHING OFFICERS EXACTING FEES BEYOND THE TABLE.—If any clerk or depute clerk of the peace, or any constable or other officer, shall exact or take from any party, in a case of small debt, any fee not expressly authorized by this Act, or any higher rate of fee than is authorized hereby, the person so offending shall be liable to a penalty, not exceeding, if he is a clerk or depute clerk, the sum of five pounds for each offence, or if he is a constable or other officer, not exceeding the sum of twenty shillings for each offence; which penalties respectively shall be awarded by the justices of the peace, either at a quarter sessions or at a district meeting, on complaint, either written or verbal, from the party who has been aggrieved by such illegal exaction, and satisfactory proof thereof, and which penalties the justices shall direct to be paid either to the party complaining or to the poor, or partly to both, as they may see fit; reserving always to the said justices the power competent to them of farther punishing their officers by suspension or dismissal, for this as well as other acts of malversation in office.

20. ACCOUNT AND APPLICATION OF ALL FINES AWARDED.—An account shall be kept by the clerk of court of all fines awarded by the justices by virtue of this Act; and all such fines shall, where the application of them is not otherwise provided for and directed by this Act, be paid to the poor in such manner as the justices shall direct.

21. JUSTICES AT QUARTER SESSIONS TO MAKE DIVISION OF COUNTY INTO DISTRICTS FOR PURPOSES OF THIS ACT—NOTICE TO BE GIVEN OF TIMES AND PLACES OF MEETING.—The justices of the peace for each county in that part of Great Britain called Scotland shall have power at any meeting of the quarter sessions to make suitable divisions of the county into districts, where not already done, or to alter the divisions already made, within which the justices of the peace shall meet at such stated times and places as the said justices at their quarter sessions shall fix as most convenient, in order to carry the purposes of this Act into execution, and which meetings may be adjourned, if necessary, to any other lawful day or days, to be held at the same place; and of such divisions into districts, and of the stated times and places of meetings so to be appointed, or of the alterations of such divisions or stated meetings, where alterations are necessary, the justices at their quarter sessions shall order due notice to be given to all concerned, by advertisement at the church doors of every parish in the county, at least two Sundays previous to the first stated meetings so to be appointed or altered.

22. IN CASE CLERK OF PEACE SHALL NOT ATTEND JUSTICES MAY APPOINT AN INTERIM

Clerk.—In case the clerk of the peace shall fail to attend, either personally, or by a sufficient deputy, in any of the said districts at the meetings appointed by the said justices, of which the said clerk of the peace has had due notice, the justices who shall attend at such district meeting or meetings shall and they are hereby empowered to name an interim clerk for that district, who shall be removable by any subsequent quarter sessions, and another clerk may then be appointed by the said quarter sessions from time to time, as they shall see cause.

23. Justices empowered to make Rules and Orders for carrying this Act into effect.—For the better regulating the proceedings of the said justices empowered to hear and determine the said causes, it shall and may be lawful to and for the justices at their quarter sessions from time to time to make such rules and orders as they shall find to be necessary and most conducive for carrying into effect the provisions and purposes of this Act, such rules and orders not being inconsistent with any of the express enactments or conditions herein contained, or otherwise contrary to law; and the said rules and orders, having been made by the said justices at their quarter sessions, shall be in force and kept and observed by the said justices empowered to hear and determine the said causes, and their clerks and officers, and the suitors before them, until the same shall be repealed or varied by the justices at their said quarter sessions, or by the lords of session or justiciary at Edinburgh, or by the circuit courts of justiciary, on the application of any two or more justices of the peace.

24. Persons summoned not to be exempt on account of Privilege.—No person liable to be summoned by virtue of this Act shall be exempt from the jurisdiction of the said justices on account of privilege, as being a member of any other court of justice.

25. Act not to extend to any Debt where the Title of Lands is in question, or to any matter concerning the validity of any Will, &c. or to any Gaming Debt, or Debt for Spirits, &c.—Provided always, that this Act or anything herein contained shall not extend to any debt or demand where the title of any lands, tenements, or hereditaments, or where any heritable right whatsoever, is brought in question, nor to any other debt, matter, or thing that shall or may arise upon or concerning the validity of any will, testament, or contract of marriage, although the same shall not amount to the sum of five pounds sterling; nor to any debt for any money or thing won at or by means of any horse-race, cock-match, or any kind of gaming or play, or any debt or demand for or on account of any spirituous liquors; anything herein contained to the contrary in anywise notwithstanding.

[*S.* **26** *rep.* 51 *&* 52 *Vict. c.* 57 (*S.L.R.*).]

27. No Solicitor or Procurator shall be capable to act as a Justice of the Peace.—No solicitor or procurator in any inferior court in Scotland, or the partner of any such person, shall be capable to continue or be a justice of the peace, or act as such, in any county in Scotland, during such time as such solicitor, procurator, or partner of any such person shall continue in the business or practice of solicitor or procurator in any inferior court.

SCHEDULE (A.).

Fees allowed by the Act.

Clerk's Fees.	*s.*	*d.*
Complaint warrant to cite	0	6
Copy for service	0	6
Entering into procedure book	0	6
For defender's appearance	0	6
For every oath of party	1	0
For every oath of witness	0	4
Decree and warrant of execution	0	6
Warrant de novo	0	4
Rehearing	1	6
For inspection of book	0	6

Constable's Fees, including Assistants.	s.	d.
Citation and execution	0	4
Execution of arrestment	0	6
Ditto of poinding	3	0
Sale	2	0
Imprisonment	3	0
Travelling expences per mile, constable	0	4
Assistants, each	0	3

Crier's Fees.		
For calling	0	1

N.B.—The justices strictly enforce the provision of the Act which requires a copy of the account, document of debt, or state of the demand, to be delivered to the defender, at the time he is summoned.

. . . . . .

At the day of , the clerk of peace for the shire of grants warrant for summoning the said defender to compear before the justices of the peace for the said shire at , in the court house thereof, upon the day of , at o'clock, to answer at the instance of the said complainer; and appoints a copy of the account pursued for, document of debt, or state of the demand, to be delivered to the defender along with the citation; also grants warrant for citing witnesses for both parties to compear at same place and date, to give evidence in the said matter. C.D., Clerk.

Upon the day of one thousand eight hundred and , I, constable, summoned the above designed to compear before his Majesty's justices of the peace, time and place above mentioned, to answer at the instance of the complainer, with certification that will otherwise be held as confessing the debt. This I did by a full copy of the before complaint and warrant, with a short copy of citation thereto subjoined.

A.B., Constable.

At the day of one thousand eight hundred and years, the which day his Majesty's justices of the peace for the county of found and hereby find the within designed defender liable to the also within designed pursuer, in the sum of with of expences, as herein below marked and decerned and ordained, and hereby decern and ordain instant execution by arrestment, and also execution to pass hereon by poinding and imprisonment after free days. C.D., Clerk.

Schedule A. in part rep. 36 & 37 *Vict. c.* 91 (*S.L.R.*)

SCHEDULE (B.).

Referred to in the foregoing Draft of amended Small Debt Act.

Numbers.	Date of Complaints.	Pursuers.	Defenders	Sums.	How due.	How cited.	By what Constable.	Interlocutors and Decrees.

N.B.—After the name of each pursuer and defender, let the letter P. or A. be added, in order to mark whether the party was present or absent when the cause was called; let expences be also entered under the head of interlocutors.

CHAPTER LXII.

THE POOR PRISONERS (SCOTLAND) ACT, 1825 (*Short Titles Act*, 1896).

AN ACT to amend an Act of the Scottish Parliament, relative to the Aliment of poor Prisoners. [22d June 1825.]

[*Preamble recites Scots Act, Will. 3, intituled "Act anent the aliment of poor prisoners."*]

1. SUM TO BE DEPOSITED BY CREDITOR WITH EACH PRISONER FOR DEBT, AS A SECURITY FOR HIS ALIMENT.—It shall not be lawful for the gaoler or keeper of any prison to which a prisoner shall be brought to be confined for a civil debt to receive such prisoner into his custody or confine him in such prison, unless the sum of ten shillings sterling shall be deposited in his hands by the creditor, incarcerater, or other person for behoof of such creditor, as a means of and security for the aliment of such prisoner in the manner herein directed.

2. IF ALIMENT GRANTED UNDER RECITED ACT, THE SUM DEPOSITED TO BE APPLIED FOR ALIMENT.—In the event of an aliment being awarded under the said recited Act, the gaoler or other person in whose hands the said sum of ten shillings shall have been deposited shall pay out of the same the aliment of the said prisoner, at the same rate at which aliment shall subsequently be allowed to such prisoner, from the time that he shall have been brought to the prison to the time when aliment shall have been so awarded to him pursuant to the said recited Act, and thereafter until the sum so deposited shall be exhausted.

3. IF ALIMENT UNDER RECITED ACT REFUSED, SUM DEPOSITED TO BE RETURNED TO CREDITOR.—Where, on application by any such prisoner for the benefit of the said recited Act, it shall be found that he is not entitled to the same, then the whole of the said sum of ten shillings by this Act required to be deposited shall forthwith be returned to the creditor or person by whom the same shall have been deposited.

4. WHERE APPLICATION IS NOT MADE UNDER RECITED ACT, MONEY DEPOSITED TO BE RETURNED TO CREDITOR.—Where any such prisoner shall not apply for the benefit of the said recited Act before the expiry of thirty days from the day of his commitment, the said sum of ten shillings shall in like manner be returned to the creditor or person by whom the same shall have been deposited, at the expiry of the said thirty days.

5. IF ALIMENT GRANTED UNDER RECITED ACT, UNAPPLIED PART OF DEPOSITED SUM TO BE RETURNED TO CREDITOR ON LIBERATION OF PRISONER.—Where an aliment shall be awarded to any such prisoner pursuant to the said recited Act, but the said sum of ten shillings shall not be thereby exhausted in the manner herein directed at the time such prisoner shall be liberated, so much of the said sum of ten shillings as shall remain unexhausted shall be returned to the creditor or person by whom the same shall be deposited.

6. IF DEBTOR LIBERATED WITHOUT PAYMENT BEFORE APPLICATION FOR ALIMENT UNDER RECITED ACT, DEPOSIT TO BE APPLIED FOR HIS ALIMENT AND BALANCE RETURNED TO CREDITOR.—Where the creditor shall consent to the liberation of any such prisoner, without payment of any part of the debt for which he shall have been incarcerated, before such prisoner shall have had reasonable time to obtain the benefit of the said recited Act, the said sum of ten shillings shall be returned to the creditor or person by whom the same shall have been deposited, after deducting the amount of the aliment of such prisoner during his confinement, at the lowest rate at which aliment is usually modified by the magistrate of the burgh.

7. PRISONER CLAIMING THE BENEFIT OF RECITED ACT TO EXECUTE DISPOSITION OMNIUM BONORUM TO DETAINING CREDITOR IN FAVOUR OF ALL CREDITORS.—Every prisoner who shall claim the benefit of the said recited Act shall be bound, when desired, to execute a disposition omnium bonorum in favour of the creditor at whose instance he is incarcerated, for behoof of all his creditors, the expence of such disposition being always defrayed by the creditor demanding the same; and any such prisoner refusing to grant such disposition, after being duly required in writing so to do, shall not be entitled to aliment during the time he shall persist in such refusal.

CHAPTER LXVI.

THE TRIAL OF PEERS (SCOTLAND) ACT, 1825 (*Short Titles Act*, 1896).

AN ACT for explaining and amending an Act of the Sixth Year of the Reign of Her Majesty Queen Anne, intituled "An Act to make further Provision for "electing and summoning Sixteen Peers of Scotland to sit in the House of "Peers in the Parliament of Great Britain, and for trying Peers for "Offences committed in Scotland, and for the further regulating of Voters "in Elections of Members to serve in Parliament," so far as relates to the Trial of Peers for Offences committed in Scotland. [22d June 1825.]

[*Preamble recites* 6 *Ann. c.* 11, 39 *&* 40 *Geo.* 3, *c.* 67, *and* 6 *Ann. c.* 78.]

1. CRIMES ON ACCOUNT OF WHICH A COMMISSION MAY ISSUE, PURSUANT TO 6 ANN. C. 78.—The crimes on account of which a commission in terms of the said last-mentioned Act may issue, and of which such commission may enquire, when committed in Scotland by any peer or peers, shall be, all treasons, misprisions of treason, murders and other crimes which infer a capital punishment by the law of Scotland; and all felonies and other crimes, for which, if committed in England, a peer of the United Kingdom would be tried by his peers: And it shall not be lawful for the Court of Justiciary, or any other Court in Scotland, to take cognizance of any of the aforesaid crimes; but such courts shall and may try all other crimes committed by peers in Scotland, if otherwise competent to try such crimes by the law of Scotland.

2. PROVISION AS TO INDICTMENT TO BE PRESENTED UNDER COMMISSION.—The indictment to be presented to the good and lawful men under the commission described in the said Act of Queen Anne shall in all respects be such as is competent in the Court of Justiciary according to the law and practice of Scotland, excepting only that no notice shall be therein taken of the court before which the peer accused is to be tried.

3. COPY OF INDICTMENT WITH LIST OF WITNESSES TO BE SERVED ON THE PEER ACCUSED, AND ALL WRITINGS AND ARTICLES LIBELLED ON TO BE LODGED WITH THE CLERK OF THE PARLIAMENTS.—When such indictment shall have been found by good and lawful men under such commission as aforesaid, a copy of the said indictment, having annexed to it a list of all the witnesses by whom the same is to be proved, shall be delivered to the peer accused, in presence of two or more credible witnesses, at least fifteen free days previous to the commencement of the trial of the said peer on such indictment; and all writings and articles libelled on shall be lodged in the office of the clerk of the Parliaments, in due time previous to the commencement of any such trial as aforesaid, so as the peer accused may have an opportunity of seeing the same.

4. WHEN INDICTMENT FOUND, WRIT OF CERTIORARI TO ISSUE TO CERTIFY THE SAME TO THE HIGH COURT OF PARLIAMENT, &C.—When an indictment shall be found by good and lawful men, under such commission as aforesaid, then upon the application of the prosecutor, or of the peer against whom the same may have been found, to the lord high chancellor, or keeper of the great seal of the United Kingdom, or commissioners for the keeping of the said great seal, for the time being, the lord chancellor or lord keeper or commissioners shall award his Majesty's writ of certiorari, under the great seal, directed to the justices acting under the commission aforesaid, commanding them or any of them to certify such indictment into the High Court of Parliament, or court of the lord high steward; and it shall be competent to adopt the same means for bringing forward such indictment to trial, and for securing the attendance of the peer accused at the first and all subsequent sittings of the said court, as would be lawful in the case of an indictment having been found against a peer for a crime committed in England, and returned into the High Court of Parliament, or court of the said lord high steward.

5. THE LAW OF SCOTLAND TO BE OBSERVED.—The relevancy of the indictment, the evidence in support of it, and the proof in exculpation of the accused, together with the punishment to be awarded, and the power of the prosecutor to restrict the pains of law, and every other point involving matter of law, shall be judged of in the High Court of Parliament, and in the court of the lord high steward, according to the law of Scotland; and the same forms of proceeding, in so far as may be, shall be observed on occasion of such trials, as are established by the law and practice of Scotland, and are observed in trials of indictments before the High Court of Justiciary.

6. Provision for attendance of Scotch Judges.—The lord president of the Court of Session in Scotland, the lord justice clerk, and any other judges of the Court of Session in Scotland, shall, when summoned by his Majesty, attend on occasion of the trial of any such indictment before the High Court of Parliament, or court of the lord high steward; and such judges shall be received and placed in the said courts respectively, with the judges of England, in manner and form following, that is to say, the lord president of the Court of Session in Scotland and the lord justice clerk shall sit and be placed after the lord chief baron of the court of Exchequer in England, and the other judges of the Court of Session in Scotland shall sit and be placed after the other judges of his Majesty's several courts in Westminster Hall, according to their order.

7. Provision where Indictment found not relevant.—In the event of the indictment being found not relevant, or otherwise dismissed by the High Court of Parliament, or by the court of the lord high steward, it shall and may be lawful for the said courts respectively, on application by the prosecutor to that effect, to grant warrant to commit such peer to prison, until liberated in due course of law; or if they shall see cause, it shall and may be lawful to admit him to bail, under such penalty as they may deem proper, to appear and answer to any indictment which may be preferred against him, within six months thereafter, for the crime or crimes with which such peer stood charged in Scotland at the time when proceedings before the commission commenced as aforesaid; or such peer may be otherwise dealt with, as the said court may respectively determine: Provided always, that such peer shall be entitled to his liberation from prison without bail, if an indictment shall not be found against him as aforesaid, under the provisions of this Act, and served upon such peer within the space of thirty days from the date of such warrant of commitment.

8. Peer committed to Prison in Scotland may apply for Bail under Scotch Act of 1701—39 Geo. 3, c. 49.—When any peer charged with a crime shall be committed to prison in Scotland till liberated in due course of law, he shall be entitled to apply to the lords commissioners of justiciary, or to the sheriff within whose county such peer may be incarcerated, to be admitted to bail in terms of an Act passed in the Scottish Parliament in the year one thousand seven hundred and one, intituled "Act for pre-"venting wrongous imprisonment, and against undue delays in tryals"; and it shall be competent to the said lords of justiciary, or any one of them, and to the said sheriff, to cognosce how far the crime with which such peer is charged is capital or not, and to modify the bail in terms of the said Act, having regard to an Act passed in the thirty-ninth year of the reign of his late Majesty King George the Third, intituled "An Act "to extend the bail to be given in cases of criminal information in that part of Great "Britain called Scotland": Provided always, that if the crime shall be found to be bailable, the peer so applying shall find sufficient caution, in terms of the said Act one thousand seven hundred and one, that he shall appear and answer to any indictment which shall be exhibited against him for the crime or offence wherewith he is charged, in any court competent to try the said crime, including therein the High Court of Parliament and the court of the lord high steward; and this at any time within twelve months if before the High Court of Parliament or the court of the lord high steward, and six months if before any court in Scotland.

9. Where Crime not bailable, or where Bail shall not be found, Peer may apply to be brought to Trial.—When a peer charged with any of the aforesaid crimes, competent only to be tried by the High Court of Parliament or court of the lord high steward, shall be detained in prison in consequence of the said crime not being bailable, or in consequence of such peer being unable or unwilling to find the bail, modified as aforesaid, it shall be competent to such peer to apply for and obtain letters of intimation, in terms of the aforesaid Act one thousand seven hundred and one, requiring his Majesty's advocate or procurator fiscal, or party appearing by the warrant to be concerned, to fix a diet for the trial of such peer, within sixty days after the intimation: Provided always, that the issuing of such commission as that provided by the aforesaid Act passed in the reign of her Majesty Queen Anne shall be held equivalent to the fixing a diet for trial in terms of the said Act one thousand seven hundred and one: And it is hereby provided and enacted, that if such commission shall not have been issued before the expiry of the sixty days aforesaid, such peer, having so given intimation as aforesaid, shall be discharged and set at liberty without delay, and he shall not be afterwards apprehended on account of the same crime, unless an

indictment shall have been previously found against him under a commission issued in terms of the aforesaid Act passed in the reign of her Majesty Queen Anne.

10. Peer charged with Crimes triable only before Parliament or the Lord High Steward not entitled to any other Privileges of Act of 1701.—A peer charged with any of the foresaid crimes, competent only to be tried before the High Court of Parliament, or the court of the lord high steward, shall not be entitled to any other of the privileges provided by the said Act passed in the Scottish Parliament in the year one thousand seven hundred and one, in so far as regards the liberation of such peer from prison, or his right to force on his trial, or to have the same prosecuted to a final sentence.

11. Provision when persons on Trial are found not to be Peers.—If any person shall represent himself to be a peer, and shall thereupon be proceeded against in terms of this Act, and in the course of such proceedings it shall be found that such person is not a peer, then and in such case, every such person, after being so found not to be a peer, shall and may be proceeded against thereafter in such and the same manner as if such person had not applied for letters of intimation under the said Act passed in the year one thousand seven hundred and one.

12. Act to extend to Peeresses.—The provisions of this Act shall apply to all peeresses in their own right, to all wives of peers, and to all widows of peers not married to commoners, who shall commit crimes in Scotland.

13. Act not to extend to Peers of Ireland being Members of House of Commons.—The provisions of this Act shall not apply to any peer of Ireland, being a member of the House of Commons, so long as such peer shall continue to be a member of that House of Parliament.

14. Exception as to Trials for Treason.—Nothing herein provided shall alter or affect any Act passed or law in force in regard to the trial of peers for the crimes of high treason or misprision of treason.

CHAPTER LXXXI.

The Excise Licences Act, 1825 (*Short Titles Act*, 1896).

An Act to repeal several Duties payable on Excise Licences in Great Britain and Ireland, and to impose other Duties in lieu thereof; and to amend the Laws for granting Excise Licences.[1] [27th June 1825.]

[1] *All duties of excise payable in Great Britain or Ireland upon or for or in respect of auctioneers and auctions, or sales at auction, and all and every Act and Acts of Excise, and all clauses, provisions, exemptions, penalties, and things in any Act of Excise relating to auctions, on to duties or sales by auction, or to any auctioneers, are rep.* 8 & 9 *Vict. c.* 15, *s.* 1, *save only such clauses, provisions, penalties, matters, and things as are contained in this Act, and are not repealed or altered by that Act.*

[*Preamble.*]

[*S.* **1** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

2. The following Duties of Excise shall be levied—New Duties—New Duties to be under the Management of the Commissioners of Excise.—There shall be raised, levied, collected, and paid unto his Majesty, in and throughout the United Kingdom of Great Britain and Ireland, the several duties of excise, or rates and sums of money herein-after following; (that is to say,)

For and upon every excise licence to be taken out by any maker, manufacturer, trader, dealer, retailer, or person herein-after mentioned, within Great Britain and Ireland, to be paid by such maker, manufacturer, trader, dealer, retailer, and person respectively, the respective annual sum or duty of excise in British currency herein-after mentioned; (that is to say,)

. . . . . .

Beer.—	£	s.	d.
. . . . .			
Every person, not being a brewer of beer, who shall sell strong beer only in casks, containing not less than 4½ gallons imperial standard gallon measure, or in not less than two dozen reputed quart bottles at one			

	£	s.	d.
BEER—continued.			
time, to be drank or consumed elsewhere than on his, her, or their premises - - - - - - - - -	3	3	0
Every person who shall be duly authorized by justices of the peace to keep a common inn, alehouse, or victualling house, and who shall sell beer, cyder, or perry by retail, to be drank or consumed in his, her, or their house or premises, if the dwelling house in which such person shall reside or retail beer, cyder, or perry as aforesaid at the time of taking out such licence shall not, together with the offices, courts, yards, and gardens therewith occupied, be rated under the authority of any Act or Acts of Parliament for granting duties on inhabited houses at a rent of L.20 per annum or upwards, or shall not be rented or valued at such rent or annual value, or upwards - - -	1	1	0
And if rated, rented, or valued as aforesaid, at L.20 per annum, or upwards - - - - - - - -	3	3	0
. . . . .			
SPIRITS.—Every distiller or maker of low wines or spirits - - -	10	0	0
Every rectifier or compounder of spirits - - - - -	10	0	0
Every dealer in spirits, not being a retailer thereof - - -	10	0	0
. . . . .			
Every person in Scotland or Ireland, not being a distiller, rectifier, or compounder of spirits, who shall keep or use any still for the carrying on the trade of a chemist, or any other trade or business requiring the use of any still or stills - - - - - - - -	0	10	0
Every retailer of spirits (except retailers of spirits in Ireland after mentioned), if the dwelling house in which such retailer shall reside or retail such spirits at the time of taking out such licence shall not, together with the offices, courts, yards, and gardens, therewith occupied, be rated under the authority of any Act or Acts of Parliament for granting duties on inhabited houses, at a rent of L.10 per annum or upwards, or shall not be rented or valued at such rent or annual value or upwards -	2	2	0
If the same shall be rated, rented, or valued as aforesaid, at £10 per annum or upwards, and under £20 - - - -	4	4	0
If at £20 and under £25 - - - - - -	6	6	0
If at £25 and under £30 - - - - - -	7	7	0
If at £30 and under £40 - - - - - -	8	8	0
If at £40 and under £50 - - - - - -	9	9	0
If at £50 per annum, or upwards - - - - -	10	10	0
Every retailer of spirits in Ireland, being duly licensed to trade in, vend, and sell coffee, tea, cocoa nuts, chocolate, or pepper, and not selling spirits in any greater quantity at one time than two quarts, or any spirits to be consumed in the house or premises of such retailer, if the dwelling house in which such retailer shall reside or retail such spirits as aforesaid at the time of taking out such licence shall not, together with the offices, courts, yards, and gardens therewith occupied, be rated under the authority of any Act or Acts of Parliament for granting duties on inhabited houses, at a rent of £25 per annum or upwards, or shall not be rented or valued at such rent or annual value, or upwards - -	9	9	0
If the same shall be rated, rented, or valued as aforesaid at £25 and under £30 - - - - - - - -	10	10	0
If at £30 and under £40 - - - - - -	11	11	0
If at £40 and under £50 - - - - - -	12	12	0
If at £50 and upwards - - - - - -	13	13	0
. . . . .			
TOBACCO AND SNUFF.—Every manufacturer of tobacco or snuff, if the tobacco and snuff-work weighed by such person for manufacture within the year ending the fifth day of July previous to taking out such licence shall not have exceeded 20,000 lbs. weight - - - - -	5	0	0
If the same shall exceed 20,000 lbs. and shall not exceed 40,000 lbs. weight - - - - - - - -	10	0	0

TOBACCO AND SNUFF—continued.	£	s.	d.
If the same shall exceed 40,000 lbs. and shall not exceed 60,000 lbs. weight	15	0	0
If the same shall exceed 60,000 lbs. and shall not exceed 80,000 lbs. weight	20	0	0
If the same shall exceed 80,000 lbs. and shall not exceed 100,000 lbs. weight	25	0	0
If the same shall exceed 100,000 lbs. weight	30	0	0
Every person who shall first become a manufacturer of tobacco or snuff, on taking out such licence as aforesaid for that purpose, shall pay the sum of five pounds, and shall, within ten days after the fifth day of July next after taking out such licence, pay such further sum as with the said sum of five pounds shall amount to the duty herein-before mentioned, according to the quantity of tobacco and snuff-work weighed for manufacture within the preceding year or period for which such licence was granted	5	0	0
Every dealer in or seller of tobacco or snuff	0	5	0
VINEGAR.—Every maker of vinegar or acetous acid for sale	5	0	0
WINE.—Every dealer in foreign wine, who shall not have an excise licence for retailing spirits, and a licence for retailing beer	10	0	0

. . . . . .

And for the better securing, raising, levying, and collecting of the said duties hereby granted, the same shall be under the collection and management of the commissioners of excise for the time being; and all the monies therefrom arising shall (the necessary charges of raising and accounting for the same being deducted therefrom) be paid into the receipt of his Majesty's Exchequer, and carried to and made part of the consolidated fund of the United Kingdom of Great Britain and Ireland.

S. 2 *in part rep.*, 36 & 37 *Vict. c.* 91 (*S.L.R.*); *and* 51 & 52 *Vict. c.* 57 (*S.L.R.*).

[*S.* **3** *rep.* 36 & 37 *Vict. c.* 91 (*S.L.R.*).]

4. PERSONS LICENSED UNDER THIS ACT TO RETAIL COFFEE, TEA, &C. IN IRELAND, SHALL BE DEEMED GROCERS, ENTITLED TO A SPIRIT RETAIL LICENCE UNDER THE PROVISIONS OF THIS ACT AND FORMER LAWS.—All persons who shall be duly licensed under this Act to deal in or sell coffee, tea, cocoa nuts, chocolate, or pepper, shall be deemed grocers, within the meaning of the several laws of excise in force in Ireland at and immediately before the passing of this Act, and shall be entitled to take out the licence herein-before mentioned to retail spirits, in any quantity not exceeding two quarts at any one time, to be consumed elsewhere than in the house or on the premises of such retailer, subject nevertheless to all and every the regulations contained in the said laws, or any of them, in respect of grocers retailing spirits, except so far as the same are repealed or altered by this Act.

5. WHERE THE DUTY ON LICENCES IS REGULATED BY THE RENT AT WHICH A HOUSE IS RATED FOR THE HOUSE TAX, AND ANY HOUSE IS NOT SO RATED, THE RENT OR ANNUAL VALUE IS TO BE CERTIFIED BY THE TENANT AND LANDLORD; AND IF SUCH CERTIFICATE BE UNSATISFACTORY, THE COMMISSIONERS OF EXCISE SHALL ADOPT OTHER MEANS FOR ASCERTAINING THE TRUE RENT OR VALUE THEREOF.—And whereas the duty upon certain licences authorized and required to be taken out by this Act is imposed at and according to the rent at which the premises used for the purpose or purposes mentioned in such licence are rated to the duty on inhabited houses: And whereas many houses or premises in different parts of the United Kingdom, for or in respect of which such licences may be required, may not be so rated: Be it therefore enacted, that in all cases, and in any part of the United Kingdom, in which any such house or premises shall not be so rated as aforesaid, it shall and may be lawful, in order to ascertain the rent or annual value of such house or premises, for the person or persons, being the tenant or occupier thereof, who shall apply for any such licence upon which the duty is so imposed as aforesaid, to produce to the person or persons authorized to grant such licence as aforesaid a certificate, signed by himself and the owner or landlord of the said house and premises, stating the true rent paid by or for which such house or premises is or are let to such tenant or occupier; or if the true rent, by reason of the payment of any premium, or performance

of any condition or otherwise, shall not be reserved and payable to the owner or landlord by the tenant or occupier of such house or premises, then and in such case stating the estimated rent or true annual value of such house or premises, and the rate of duty payable by such tenant or occupier for such licence, shall be paid, taken, and received, according to the rent or value so certified: Provided always, that if the person or persons authorized to grant such licence shall be dissatisfied with the rent or value so certified, he or they shall and is and are hereby authorized and required to adopt such other means as the commissioners of excise shall think fit and shall from time to time direct, to ascertain the true rent or annual value of such house or premises; and that thereupon the rate of duty payable for and upon such licence shall be paid, taken, and received, according to the rent or annual value of the house and premises so ascertained as last aforesaid; anything herein or in any other Act or Acts of Parliament to the contrary thereof notwithstanding.

6. How Licences are to be granted and Duties paid.—Every excise licence which is authorized or required to be taken out by this Act shall be granted, and the duty thereupon imposed shall be paid, in and throughout the United Kingdom, in manner and form following; that is to say, if any such licence shall be taken out within the limits of the head or chief office of excise in London, then such licence shall be granted under the hands and seals of two or more of his Majesty's commissioners of excise, or of such person or persons as such commissioners shall from time to time employ for that purpose, and the duty thereupon imposed as aforesaid shall be paid at such head or chief office at the time of granting the licence; or if such licence shall be taken out within the limits of the cities of Edinburgh or of Dublin respectively, such licence shall be granted under the hands and seals of his Majesty's commissioner or commissioners and assistant commissioners of excise acting in and for Scotland or Ireland respectively, for the time being, or of any two of them respectively, or of such person or persons as such commissioner or commissioners and assistant commissioners shall from time to time employ for that purpose, and the duty thereupon imposed shall be paid at the chief office of excise in Edinburgh or Dublin respectively, at the time of granting the licence; or if such licence shall be taken out in any other part of the United Kingdom without such respective limits as in that behalf respectively aforesaid, then and in every such case the same shall be granted under the hands and seals of the collector or other person having charge of the collection, and supervisor of excise, within the collection and district in which such licence is taken out, and the duty thereupon imposed shall be paid to such collector or other person as aforesaid at the time of granting the licence; and such respective commissioners of excise in England, and commissioner or commissioners and assistant commissioners of excise acting in and for Scotland and Ireland respectively, and the person or persons by them respectively employed as aforesaid, and every collector or other person having charge of the collection, and supervisor as aforesaid, is and are hereby respectively authorized and required to grant and deliver every such licence to the person or persons who shall apply for and be legally entitled to receive the same, forthwith upon payment of the duty or sum of money thereupon imposed, free from all poundage, fee, gratuity, or any other payment whatsoever.

7. Contents of Licence—Partners need not take out more than one Licence, except Auctioneers.—In every licence to be taken out under or by authority of this Act shall be contained and set forth the purpose, trade, or business for which such licence is granted, and the true name and place of abode of the person or persons taking out the same, and the true date or time of granting such licence, and (except in the case of auctioneers) the place at which the trade or business for which such licence is granted shall be carried on: Provided always, that persons in partnership, and carrying on their trade or business in one place and set of premises only, shall not be obliged to take out more than one licence in any one year, for the purpose of carrying on such trade or business, save and except that each and every person whatsoever exercising or carrying on the trade or business of an auctioneer, or acting as such, shall take out a separate and distinct licence for that purpose; anything herein contained to the contrary thereof notwithstanding.

[*S.* 8 *rep.* 8 *&* 9 *Vict. c.* 15, *s.* 6.]

9. No Person taking out a Licence required to give a Bond.—Where by any Act or Acts of Parliament relating to excise licences in force in Great Britain or Ireland on or immediately before the fifth day of July one thousand eight hundred and twenty-

five it is required that any person or persons taking out an excise licence to exercise or carry on any trade or business therein mentioned in any part of the United Kingdom should give bond at the time of granting such licence, it shall and may be lawful for such person or persons, . . . to take out such licence without giving bond as aforesaid; . . . . . .

S. 9 *in part rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).

10. No one Licence to authorise any person, except Auctioneers and Maltsters, to carry on his Trade in more than one separate and distinct set of Premises—Where Duty depends on quantity of Goods made, only the Goods made on the Premises licensed shall be reckoned.—No one licence taken out under or by authority of this Act, by any person or persons, except auctioneers and maltsters, shall authorize or empower such person or persons to exercise or carry on the trade or business mentioned in such licence in more than one separate and distinct set of premises, such premises being all adjoining or contiguous to each other, and situate in one place, and held together for the same trade or business, and of which he, she, or they shall have made lawful entry, to exercise or carry on therein, his, her, or their trade or business as aforesaid, at the time of granting such licence; but a separate and distinct licence shall be taken out by all and every such person or persons as aforesaid, except as aforesaid, to exercise or carry on his, her, or their trade or business as aforesaid, at or in any other or different premises than as before mentioned: Provided always, that where the amount or rate of any such licence shall depend upon the quantity of goods made or manufactured by the person or persons to whom the same is granted, such quantity shall be computed from the respective goods only made or manufactured by such person or persons at the premises in respect of which such licence is granted, and shall not include goods made or manufactured by such person or persons at any other or different premises, for which a separate and distinct licence is required as above mentioned.

11. This Act not to prevent persons licensed to sell Beer, Cyder, or Perry to be consumed on the Premises, or Retailers of Spirits, Wine, or Sweets, from selling at Fairs or Races—Removal of the Licence in case of destruction of Premises by Fire or Accident—Publicans' Licences not to be removed without authority from Justices.—Provided always, that nothing herein contained shall extend to prohibit any person or persons duly licensed to sell beer, cyder, or perry by retail, to be drank or consumed in his, her, or their house or premises, or any retailer of spirits (not being a retailer of spirits in Ireland licensed as a grocer to trade in, vend, and sell coffee, tea, cocoa nuts, chocolate, or pepper), or any retailer of foreign wine, or retailer of sweets or made wines, or of mead, or metheglin, he or she being duly licensed respectively for such respective purpose, to carry on his or her trade or business, for which he or she respectively shall be so licensed as aforesaid, in booths, tents, or other places, at the time and place and within the limits of holding any lawful and accustomed fair, by virtue of any law or statute in that behalf, or any public races; provided also, that in all cases in which the house or premises in respect of which any excise licence is or shall be granted shall be burnt down, or otherwise destroyed or rendered uninhabitable, by fire or other unavoidable cause or accident, it shall and may be lawful for the commissioners and assistant commissioners of excise, or collector and supervisor, or other person or persons authorized to grant licences within the district or place in which such house or premises was or were situate, upon due notice thereof to him or them in that behalf given, to authorize and empower, by indorsement on such licence, or otherwise, as the commissioners of excise shall direct, the person or persons authorized to carry on trade or business by such licence at the house or premises so burnt down or otherwise destroyed or rendered uninhabitable to carry on such trade or business at any other and different house or premises in the same district or place, of which due entry shall be thereupon made by such person or persons at the time of such removal thereto; provided always, that where such licensed person or persons as aforesaid shall be a person or persons by law required to be duly authorized by justices of the peace to keep a common inn, alehouse, or victualling house, it shall not be lawful for the commissioners or assistant commissioners of excise, or such collector and supervisor, or other person or persons authorized to grant licences as aforesaid, to authorize or empower such licensed person or persons as aforesaid, unless such person or persons shall, besides giving such notice as herein-before required, produce to such collector

and supervisor, or other person or persons authorized to grant licences as aforesaid, such authority from justices of the peace, as by law required in that behalf, to keep a common inn, alehouse, or victualling house, in the house or premises to which such person or persons shall desire to remove in consequence of such fire or other unavoidable cause or accident as aforesaid.

12. No Excise Licence necessary for the sale of any excisable Foreign Commodity whilst it is in the import Warehouses.—Proviso.—It shall not be necessary for any person or persons to take out an excise licence for the sale of any foreign goods or commodities, for the sale of which in any manner an excise licence is required by this Act, whilst such goods and commodities shall be and remain in the warehouse or warehouses in which the same shall have been deposited, lodged, or secured according to law, before payment of duty upon the importation thereof; anything in this or any other Act to the contrary thereof in anywise notwithstanding: Provided always, that every such sale shall be of not less than one entire cask or package of the liquors or goods so warehoused, and be made to one person, or to persons carrying on trade or business in partnership.

13. No Licence to be granted for selling Beer or Cyder by retail, to be consumed on the Premises, without a Certificate from Justices.—No excise licence shall be granted under or by authority of this Act, for the sale of any beer, or cyder or perry, by retail, to be drank or consumed upon the house or premises of the person or persons applying for such licence, to any person or persons who shall not produce at the time of applying for such licence a certificate or authority then in force, to him, her, or them in that behalf granted in due form of law by justices of the peace or magistrates, or other competent persons, for such person or persons applying for such licences as aforesaid to keep a common inn, alehouse, or victualling house; and if any such licence shall be granted to any person or persons other than as aforesaid, the same shall be and is hereby declared to be absolutely null and void to all intents and purposes, and the person or persons taking out the same shall be subject to all penalty or penalties to which he, she, or they would have been subject had no such licence been granted.

14. No Licence to retail Spirits or Sweets or made Wines, or Mead or Metheglin, to be consumed on the Premises, shall be granted to any person who has not a Retail Beer Licence.—No licence for the sale of any spirits . . . or sweets or made wines, or mead or metheglin, by retail, to be drank or consumed in or upon the house or premises where sold, shall be granted to any person or persons who shall not have and produce a licence for the sale of beer, cyder or perry, by retail, to be drank or consumed in or upon such house or premises, in that behalf granted as herein by this Act before mentioned; and if any licence for the sale of any spirits . . . or sweets or made wines, or mead or metheglin, by retail, to be drank or consumed in or upon the house or premises where sold, shall be granted to any person or persons other than as aforesaid, such licence shall be and is hereby declared to be absolutely null and void to all intents and purposes; and all and every such person or persons as aforesaid shall be subject and liable to all and every penalty and penalties imposed upon persons selling spirits . . . or sweets or made wines, or mead or metheglin, by retail without licence.

S. 14 *rep.* 16 & 17 *Vict. c.* 67, *s.* 3, *so far as regards any licence to be granted in Scotland, and in part rep.* 39 & 40 *Vict. c.* 16, *s.* 4.

15. Aqua vitæ in Scotland to be deemed Spirits, and to be sold only by persons having Licences to retail Beer and Spirits.—The spirits called aqua vitæ in Scotland shall be deemed and taken to be British spirits to all intents and purposes, and all persons retailing such spirits in Scotland or elsewhere shall first take out a licence to retail beer, and also a licence to retail spirits, as before directed by this Act, and shall in all respects be subject to all the same rules, regulations, and restrictions to which such retailers of spirits are subject or liable; anything in this or any other Act contained to the contrary thereof notwithstanding.

16. Licences taken out by Brewers and Distillers, and by Publicans, as Retailers of Beer, Spirits, or Foreign Wine, or Sweets or made Wines, or Mead or Metheglin, shall expire on the 10th of October in each year, and all other Licences on the 5th of July; Licences to be renewed Yearly, and notice for Renewal given by the Trader Twenty-one Days at least before the expiration of

HIS CURRENT LICENCE; NEW LICENCE, IF REGULARLY RENEWED, TO BEAR DATE FROM THE EXPIRATION OF THE FORMER LICENCE, IF GRANTED AFTERWARDS; OR OTHERWISE TO BEAR DATE FROM DATE OF APPLICATION.—All excise licences taken out in the United Kingdom by any brewer or brewers of beer, or by any distiller or maker, distillers or makers of low wines or spirits, or by any person or persons who shall be duly authorized by justices of the peace to keep a common inn, alehouse, or victualling house, and who shall take out a licence for selling beer, cyder, or perry by retail, to be drank or consumed in the house or premises, or for selling spirits or foreign wine, or sweets or made wines, or mead or metheglin, by retail, under or by virtue of this Act, or any other law or laws of excise (except any excise licence or licences theretofore granted, and which shall be then in force and unexpired), shall continue and be in force from the day of the date of such licences respectively, until the tenth day of October following, on which day in each year all such excise licences (except as aforesaid) shall expire; and all other excise licences throughout the United Kingdom, except those above specified, and except as above excepted, shall continue and be in force from the day of the date of such licences respectively, until the fifth day of July following, on which day in each year all such licences as last aforesaid (except as aforesaid) shall expire; and all and every person or persons who shall have taken out any such licence as aforesaid, and who shall wish or intend to continue the trade or business for which such licence was granted for any longer space of time, shall take out a fresh licence for the year following, to expire on one of such days as hereinbefore mentioned, according to the nature of the licence by him, her, or them taken out, and shall so renew the same from year to year, so long as he, she, or they shall continue such trade or business, and shall pay in each and every such case the duty thereupon imposed at such time and place as herein-before mentioned; and every such person or persons shall in every such case as aforesaid give notice in writing, at least twenty-one days before the expiration of the current licence to him, her, or them before granted, of such his, her, or their intention to continue the trade or business for which such licence was before granted, to the collector or supervisor, or other person or persons authorized to grant licences for the district or place at which such trade or business shall be carried on; and in cases where the excise licence is so renewed as aforesaid, and such notice as aforesaid shall have been given, the new licence shall bear date from the day or date of the expiration of the current licences before granted; but in case where such notice shall not have been given as aforesaid, and in all other cases than as aforesaid, the licence shall bear date from the day of the date of the application made for such licence, although and notwithstanding any such licence may be delivered at any day subsequent to the date of such application.

17. LICENCES MAY BE GRANTED TO NEW BEGINNERS FOR A PART OF THE YEAR, ON PAYMENT OF PROPORTIONAL PART OF THE DUTY, ACCORDING TO THE QUARTER OF THE YEAR IN WHICH THE LICENCE SHALL BE TAKEN OUT.—Provided always, that if any person or persons shall commence or begin to exercise or carry on any trade or business, for the exercise or carrying on of which an excise licence is required, such person or persons not having before taken out any such licence, it shall and may be lawful for the person and persons authorized to grant licences to grant such licence for the remainder of the current year in which such licence shall be taken out, ending on the fifth day of July or on the tenth day of October next following the date of the licence taken out by such person or persons, according to the nature of such licence, upon payment of such proportional part of the duty thereupon imposed, in such manner as herein-after mentioned; that is to say, if such licence shall be taken out at any time within the first quarter of the current year in which such licence shall be taken out, and ending as aforesaid, or in the quarter expiring on the tenth day of October, or on the fifth day of January, next following the date of such licence, according to the nature of the licence taken out, that then the person or persons taking out such licence shall pay the whole duty imposed upon such licence in such manner as herein-before mentioned at the time of granting such licence; and if such licence shall be taken out at any time within the second quarter of such current year, and ending as aforesaid, or in the quarter expiring on the fifth day of January, or on the fifth day of April, next following the date of such licence, according to the nature of the licence taken out, the person or persons taking out such licence shall pay three fourth parts of the duty imposed upon such licence, in such manner as herein-before mentioned at the time of granting such licence; and if such licence shall be taken out at any time within the third quarter of such current year, and

ending as aforesaid, or in the quarter expiring on the fifth day of April, or on the fifth day of July, next following the date of such licence, according to the nature of the licence taken out, one half of the duty imposed upon such licence shall be paid in such manner as herein-before mentioned at the time of granting such licence; and finally, if such licence shall be taken out at any time within the last quarter of such current year, and ending as aforesaid, or in the quarter expiring on the fifth day of July, or on the tenth day of October, next following the date of such licence, according to the nature of the licence taken out, that then a fourth part only of the duty imposed upon such licence shall be paid in such manner as herein-before mentioned at the time of granting such licence.

18. Persons who have been licensed before shall not on taking out a new Licence be considered Beginners, unless the old Licence expired at least two years before the new Licence is taken out.—Provided also, that no person or persons who shall at any time have taken out an excise licence for the exercise or carrying on of any trade or business for which an excise licence is required, and who shall in any subsequent year after such licence shall have expired take out a new licence for the carrying on the same trade or business, whether on the same or on other or different premises from those on which he, she, or they before carried on such trade or business, shall be deemed or taken to be a person or persons commencing or beginning to exercise or carry on such trade or business, within the intent and meaning of this Act, so as to entitle him, her, or them to take out such licence upon payment of a proportional part only of the duty thereupon imposed; but all and every such person or persons as aforesaid shall pay the whole of such duty, unless the period of time between the expiration of the former licence and the taking out of the new licence shall at the least be a period of two years.

[*Ss.* **19, 20** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

21. Licences may be transferred by Endorsement to the Executors, Wife, Child or Assignee of the person licensed—Fresh Entries of Premises to be made—Transfer of Publicans' Retail Beer Licence to be made only on Justices' Certificate.—Provided always, that upon the death of any person or persons licensed under or by virtue of this Act, or any law or laws of excise, or upon the removal of any such person or persons from the house or premises at which he, she, or they were authorized by such licence to exercise or carry on the trade or business mentioned in such licence, it shall and may be lawful for the person and persons authorized to grant licences to authorize and empower, by indorsement on such licence, or otherwise, as the commissioners of excise shall direct, the executors or administrators, or the wife or child of such deceased person, or the assignee or assigns of such person or persons so removing as aforesaid, who shall be possessed of and occupy the house or premises before used for such purpose as aforesaid, in like manner to exercise or carry on the same trade or business mentioned in such licence, in or upon the same house or premises at which such person or persons as aforesaid deceased, or removing as before mentioned, by virtue of such licence to him, her, or them in that behalf granted, before exercised or carried on such trade or business, for and during the residue of the term for which such licence was originally granted, without taking out any fresh licence or payment of any additional duty or any fee thereupon, for the residue of such term and until expiration thereof: Provided always, that a fresh entry of the premises at which such trade or business shall continue to be so exercised or carried on as aforesaid shall thereupon be made by and in the name or names of the person or persons to whom such authority as aforesaid shall be granted; and provided also, that no such authority as aforesaid shall be granted for the sale of beer, cyder, or perry, or sweets, or made wines or sweets, mead or metheglin, by retail, to be drank or consumed in or upon the house or premises for which the original licence was granted, except and in such cases where a proper certificate granted and given by a justice of the peace or magistrate, or other competent person according to the law, made after the death or removal of the former occupier or occupiers of the premises shall have taken place, shall be produced, approving of the person or persons to whom such certificate shall be given or granted as aforesaid.

22. Persons disabled by conviction from keeping a common Inn, &c. disabled from having Excise Licence to retail Beer—On Prosecution, Certificate from Clerk of the Peace of conviction shall be Evidence—Penalty on Clerk of the Peace neglecting to give Certificate.—All and every person or persons who shall be

disabled by any conviction from holding or having a licence to keep, or from keeping a common inn, alehouse, or victualling house, shall also by such conviction be disabled from taking out and from having any excise licence to sell, and from selling beer, cyder, or perry by retail in any manner whatsoever, under any excise licence or licences obtained for such purpose; and if any such person shall, after such conviction as aforesaid, take out or have any excise licence or licences for any such purpose as aforesaid, the same shall and is hereby declared to be absolutely null and void to all intents and purposes; and every person who shall, after such conviction as aforesaid, sell any beer, cyder, or perry by retail in any manner whatsoever, shall incur the penalty for so doing without licence; and in all such cases, in the prosecution for the recovery of such penalty, a certificate from the clerk of the peace, or person acting as such, of any such conviction as aforesaid shall on the trial in such prosecution be legal evidence thereof, which certificate such clerk of the peace, or other person acting as such, is hereby authorized and required, within one week after any such conviction shall have been returned to his office, to deliver to the collector of excise, or other person or persons authorized to grant excise licences within the district or place in which such conviction shall have taken place, setting forth a copy of such conviction signed by himself, for which he shall demand or receive no fee or reward whatsoever; and if any such clerk of the peace, or other person acting as such as aforesaid, shall neglect or omit to deliver such certificate as aforesaid, he shall for every such offence forfeit the sum of ten pounds.

23. WHERE THE RETAIL BEER LICENCE SHALL BECOME VOID BY CONVICTION AS AFORESAID, THE RETAIL SPIRIT LICENCE SHALL BECOME VOID ALSO.—Where the licence for the sale of beer, cyder, or perry by retail, to be drank or consumed upon the house or premises of the person or persons to whom the same is granted, shall become void, and the person or persons thereupon disabled in such manner as before mentioned by this Act, the licence for the sale of any spirits or foreign wine, or sweets or made wines, or mead or metheglin, by retail, to be drank or consumed upon the house or premises thereupon granted, shall become null and void also, to all intents and purposes; and in such case if the person or persons to whom the same respectively were granted shall sell any spirits or any foreign wine, or any sweets or made wines, or any mead or metheglin respectively, by retail, to be drank or consumed upon the house or premises, after such conviction as aforesaid shall have taken place in manner before mentioned in this Act, and every such licence as aforesaid has thereby become void, such person or persons shall incur the penalty for selling spirits or foreign wine, or sweets or made wines, or mead or metheglin, to be consumed upon the premises, by retail without licence; and in all such cases, in the prosecution for the recovery of such penalty as aforesaid, such conviction shall be proved in such and the like manner as before specified by this Act in a prosecution under similar circumstances for the sale of beer, cyder, or perry by retail, to be drank or consumed on the house or premises, without licence.

24. UPON THE EXPIRATION OF THE JUSTICES' AUTHORITY TO KEEP A PUBLIC HOUSE WITHIN THE YEAR BEFORE THE EXPIRATION OF THE EXCISE LICENCES GRANTED THEREUPON (NO CONVICTION HAVING TAKEN PLACE), A PROPORTIONAL PART OF THE DUTIES ON THE EXCISE LICENCES SHALL BE RETURNED.—And whereas the periods at which justices of the peace or magistrates, or other competent persons as aforesaid, are in the practice of granting such certificates or authorities as aforesaid to persons to keep common inns, alehouses, or victualling houses, are various, and at different times in different parts of the United Kingdom: And whereas the same do not in any manner correspond with the period at which excise licences are granted, or for which the same continue in force; and that upon the expiration of such certificate or authority as aforesaid, the excise licence to sell beer, cyder, or perry by retail, to be drank or consumed upon the house or premises where sold, granted upon such certificate or authority as aforesaid, expires, and the excise licences to sell spirits, foreign wines, sweets or made wines, and mead or metheglin by retail, to be drank or consumed upon the house or premises, which are granted upon such retail beer excise licence, do thereupon also expire: Be it therefore enacted, that if the term for which any such certificate or authority as aforesaid is granted shall expire (no conviction as before mentioned having taken place) at any time within the first quarter of the current year for which such excise licences as aforesaid respectively were granted, and no such certificate or authority shall be renewed or granted for the succeeding year, three fourth parts of the duties thereupon respectively paid by the person or persons to whom the same respectively were granted shall be

removal to the person or persons then holding such licences, and carrying on trade or business in such house or premises; and if such certificate or authority as aforesaid shall expire as aforesaid at any time within the second quarter of the current year for which such licences as aforesaid respectively were granted, and shall not be renewed or granted for the succeeding year, one half part of the duties paid thereon respectively shall be returned as aforesaid; and if such certificate or authority shall so expire as aforesaid at any time within the third quarter of the current year for which such licences as aforesaid respectively were granted, and shall not be renewed or granted as aforesaid, then one fourth part of the duties paid thereon respectively shall be returned as aforesaid; and the collector, or other person or persons, to whom the duty or duties payable on such licences respectively was or were paid at the time of granting the same, shall and are hereby respectively authorized and required to return such sum or sums of money as aforesaid to such person or persons as aforesaid, on application to him or them being thereupon made by such person or persons for that purpose.

25. Persons licensed required to enter their Premises for carrying on Business for which a Licence is required, to put up over their Premises their Names, &c. —Penalty for not so doing, or on unlicensed persons for so doing, L.20. —All and every person or persons in the United Kingdom, required by any law or laws of excise to make entry of his, her, or their premises, in order to exercise or carry on therein any trade or business, for which an excise licence is required, and who shall have taken out such licence, shall paint or cause to be painted, or shall place and fix in letters publicly visible and legible, and at least one inch long, in and upon his, her, or their entered premises, his, her, or their names respectively at full length (or where there are partners or more than one person engaged in carrying on jointly the same trade or business, the name or style of the firm or partnership), and after such name or names the word "licensed," adding thereto the words necessary to express the purpose or trade or business for which such licence has been granted; and such person or persons shall cause such letters to be painted or placed, and fixed in some conspicuous place on the outside of the front of his, her, or their said premises, over the principal outward door or gate, or entrance door thereto, and not more than three feet from the top of such outward door or gate, or entrance door; and if any such person or persons as aforesaid shall not paint or place and fix such letters as aforesaid, or shall not preserve and keep the same so painted, placed, and fixed, or shall not repaint or renew the same as often as necessity shall require, for the purpose of keeping the same in good order and condition during the continuance of his, her, or their licence, he, she, or they shall forfeit for every such offence the sum of twenty pounds; and if any person or persons not being licensed to exercise or carry on any trade or business for which a licence is required by this Act shall put or have any such letters as aforesaid upon his, her, or their premises, or any letters importing that he, she, or they does or do exercise or carry on any such trade or business, or is or are licensed so to do, all and every such person or persons shall for every such offence forfeit the sum of twenty pounds.

26. Penalty for exercising Trade, &c. without Licence—Penalties.—If any person or persons shall make or manufacture, deal in, retail, or sell any goods or commodities hereinafter mentioned, or shall exercise or carry on any trade or business hereinafter mentioned, for the making or manufacturing, or dealing in, retailing, or selling of which goods or commodities, or for the exercising or carrying on of which trade or business, a licence is required by this Act, without taking out such licence as is in that behalf required, he, she, or they shall for every such offence respectively forfeit and lose the respective penalty thereupon imposed, as herein-after follows; (that is to say,)

Every distiller or maker of low wines or spirits, and every rectifier or compounder of spirits, so offending respectively, shall respectively forfeit and lose five hundred pounds:

Every manufacturer of tobacco or snuff, so offending, shall forfeit and lose two hundred pounds:

. . . . Every person not being a brewer of beer, who shall sell strong beer only in casks containing not less than four gallons and a half, or in not less than two dozen reputed quart bottles at one time, to be drank or consumed elsewhere than on his, her or their premises;— . . . Every dealer in spirits, not being a retailer thereof;—Every retailer of spirits in Ireland, being licensed to trade in, vend, and sell coffee, tea, cocoa nuts, chocolate, or pepper;— . . . Every maker

of vinegar or acetous acid, for sale ;—Every dealer in foreign wine ;— . . . so offending respectively ;—shall respectively forfeit and lose the sum of one hundred pounds :

Every person who shall sell beer, cyder, or perry by retail, to be drank or consumed in his, her, or their house or premises ;—Every retailer of spirits, not being a retailer of spirits in Ireland, duly licensed to sell coffee, tea, cocoa nuts, chocolate, or pepper ;—Every retailer of foreign wine ;—Every retailer of sweets or made wines, or of mead or metheglin ;— . . .—Every dealer in or seller of tobacco or snuff ;— . . .—Every person in Scotland or Ireland, not being a distiller, rectifier, or compounder of spirits, who shall keep or use any still for the carrying on the trade of a chemist, or any other trade or business requiring the use of any still or stills, so offending respectively ;—shall respectively forfeit and lose the sum of fifty pounds.

S. 26 *in part rep.* 36 *& 37 Vict. c.* 91 (*S.L.R.*).

27. The Occupiers of Premises where Goods are retailed without Licence by persons unknown, shall be deemed to be the Retailers thereof, if privy or consenting thereto, and shall be liable to Penalties for sale without Licence.—If any spirits shall be sold or delivered in any quantity less than two gallons, or if any beer, wine, cyder, perry, sweets, mead, or metheglin, or vinegar, or any other goods for the retail of which a licence is by this Act required, shall be sold by retail in any house or premises, or in any part of any house or premises, by any person or persons unknown, or who shall not be licensed for that purpose according to this Act, the occupier of such house or premises, or part of any house or premises, where such spirits or other liquors or goods shall be so sold as aforesaid, if but one occupier only, and if more than one, then the several occupiers thereof, being privy or consenting thereto, shall be deemed and taken to be the retailer or retailers of such spirits, or other liquors or goods, and as such shall be subject and liable to the penalties imposed upon persons for the sale of spirits, or such other liquors or goods, by retail, without licence.

28. Penalty on licensed Persons not producing their Licence on demand of Officer, L.20.—If any person or persons licensed to exercise or carry on any trade or business, or make or sell any goods, for which an excise licence is required, shall not produce and deliver such licence to be read and examined by any officer or officers of excise, within a reasonable time after such officer or officers shall demand the production thereof, such person or persons shall for each and every such offence forfeit the sum of twenty pounds.

29. Informer against an unlicensed Trader, if the Penalty cannot be recovered, to be paid such sum as the Commissioners shall direct, not exceeding L.10.—Where any person or persons shall be lawfully convicted of any offence in carrying on any trade or business, or making or selling any goods, without licence, for the carrying on of which trade or business, or the making or selling of which goods, a licence or licences is or are required by this Act, and the pecuniary penalty imposed for such offence shall not be paid and cannot be levied, it shall and may be lawful for the commissioners of excise to cause such reward as they shall think fit, not exceeding ten pounds in each case, to be paid to the several and respective persons who shall appear to them to be entitled thereto as informers, out of any monies in their hands arising by any penalties or forfeitures incurred under the laws of excise.

30. Nothing in this Act contained to prejudice the Universities, the Vintners Companies, or the Borough of St. Albans.—Provided always, that nothing in this Act contained shall in anywise prejudice the privileges heretofore used and enjoyed by any university in the United Kingdom of Great Britain and Ireland, or the respective chancellors or scholars of the same respectively, or their successors, or the master, wardens, freemen, and commonalty of the vintners of the city of London, or other city or town corporate in any part of the United Kingdom, or the mayor or burgesses of the borough of Saint Albans, in the county of Hertford, or their successors, but that they may respectively use and enjoy such privileges as they have heretofore respectively lawfully used and enjoyed the same.

[*S.* **31** *rep.* 36 *& 37 Vict. c.* 91 (*S.L.R.*). ; *s.* **32** *rep.* 57 *& 58 Vict. c.* 56 (*S.L.R.*) ; *ss.* **33, 34** *rep.* 36 *& 37 Vict. c.* 91 (*S.L.R.*) ; *s.* **35** *rep.* 51 *& 52 Vict. c.* 33, *s.* 8 ; *ss.* **36, 37** (*last*) *rep.* 36 *& 37 Vict. c.* 91 (*S.L.R.*).]

CHAPTER LXXXVI.

THE COURTS OF JUSTICE (SCOTLAND) ACT, 1825 (*Short Titles Act*, 1896).

AN ACT to provide for the Erection of certain Courts and Offices of Justice in Scotland. [5th July 1825.]

[*Whole Act, except s.* 5, *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*). *S.* **1** *authorized the building of additional buildings for the jury court, offices of the Exchequer court, and other courts of justice in Scotland.*]

5. PROVISION FOR THE MAINTENANCE AND REPAIR OF THE NEW AND EXISTING BUILDINGS.—The expence of repairing and supporting the buildings to be erected in pursuance of this Act, as also the buildings at present appropriated for the accommodation of the courts of Session, Exchequer, and Justiciary, shall from time to time be defrayed out of the funds applicable to the support of the courts of Session, Justiciary, and Exchequer in Scotland, in the same manner as the expences of repairing the present buildings are defrayed.

CHAPTER LXXXVII.

THE CONSULAR ADVANCES ACT, 1825 (*Short Titles Act*, 1896).

AN ACT to regulate the Payment of Salaries and Allowances to British Consuls at Foreign Ports, and the Disbursements at such Ports for certain public Purposes. [5th July 1825.]

[*Preamble.*]

[*Ss.* **1–7,** *and* **9** *rep.* 54 *&* 55 *Vict. c.* 36; *s.* **8** *rep.* 4 *&* 5 *Will.* 4, *c.* 24.]

[*Ss.* **10–15** *rep.* 54 *&* 55 *Vict. c.* 36, *excepting as therein provided.*]

10. IN FOREIGN PORTS AND PLACES, WHERE A CHAPLAIN IS APPOINTED AND MAINTAINED BY SUBSCRIPTION, CONSULS AUTHORIZED TO ADVANCE FOR SUPPORT OF CHURCHES AND CHAPELS, &C. A SUM EQUAL TO THE AMOUNT SUBSCRIBED—ACCOUNT OF SUMS ADVANCED TO BE TRANSMITTED TO SECRETARY OF STATE, AND SUMS SO ADVANCED TO BE ALLOWED.—And whereas churches and chapels for the performance of divine service according to the rites and ceremonies of the united Church of England and Ireland, or of the Church of Scotland, have been erected, and proper grounds have been appropriated and set apart for the interment of the dead, in divers foreign ports and places, and chaplains have been appointed for the performance of divine service in the said churches and chapels, and are now resident in such foreign ports and places; and it is expedient to afford encouragement for the support of the churches and chapels so erected as aforesaid, and to promote the erection of other churches and chapels in foreign ports and places to which his Majesty's subjects may resort, and wherein they may be resident in considerable numbers, for the purposes of trade or otherwise: Be it therefore enacted, that at any foreign port or place in which a chaplain is now or shall at any future time be resident and regularly employed in the celebration of divine service according to the rites and ceremonies of the united Church of England and Ireland, or of the Church of Scotland, and maintained by any voluntary subscription or rate levied among or upon his Majesty's subjects resorting to or residing at such foreign port or place, or by any rate or duty levied under the authority of any of the Acts herein-after repealed,[1] it shall and may be lawful for any consul general or consul, in obedience to any order for that purpose issued by his Majesty through one of his principal secretaries of state, to advance and pay from time to time, for and towards the maintenance and support of any such chaplain as aforesaid, or for and towards defraying the expenses incident to the due celebration of divine service in any such churches and chapels, or for and towards the maintaining any such burial grounds as aforesaid, or for and towards the interment of any of his Majesty's subjects in any such burial grounds, any sum or sums of money not exceeding in any one year the amount of the sum or sums of money which during that year may have been raised at such port or place, for the said several purposes or any of

them, by any such voluntary subscription or rate as aforesaid; and every such consul general or consul shall, once in each year, transmit to one of his Majesty's principal secretaries of state an account, made up to the thirty-first day of December in the year next preceding, of all the sums of money actually raised at any such port or place as aforesaid, for the several purposes aforesaid or any of them, by any such voluntary subscription or rate as aforesaid, and of all sums of money by him actually paid and expended for such purposes or any of them, in obedience to any such orders as aforesaid, and which accounts shall by such principal secretary of state be transmitted to the Treasury, who shall give to any such consul general or consul as aforesaid credit for all sums of money, not exceeding the amount aforesaid, by them disbursed and expended in pursuance of any such order as aforesaid, for the purposes before mentioned, or any of them.

[1] *S.* 16 *repealed* 8 *Geo.* 1, *c.* 17, 9 *Geo.* 2, *c.* 25, 10 *Geo.* 2, *c.* 14, *&* 54 *Geo.* 3, *c.* 126.

11. WHERE VOLUNTARY CONTRIBUTIONS ARE MADE TOWARDS ERECTING, &C. CHURCHES, OR HOSPITALS, OR PROVIDING BURIAL GROUNDS, IN ANY PLACE WHERE CONSULS ARE RESIDENT, SUCH CONSULS MAY ADVANCE A SUM EQUAL TO THE AMOUNT OF SUCH CONTRIBUTIONS.—In case any of his Majesty's subjects shall by voluntary subscriptions among themselves raise and contribute such a sum of money as shall be requisite for defraying one half part of the expense of erecting, purchasing, or hiring any church or chapel or building, to be appropriated for the celebration of divine service according to the rites and ceremonies of the united Church of England and Ireland, or of the Church of Scotland, or for defraying one half part of the expense of erecting, purchasing, or hiring any building to be used as a hospital for the reception of his Majesty's subjects, or for defraying one half of the expense of purchasing or hiring any ground to be used as a place of interment for his Majesty's subjects, at any foreign port or place wherein any consul general or consul appointed by his Majesty shall be resident, then and in any such case it shall and may be lawful for such consul general or consul, in obedience to any order to be for that purpose issued by his Majesty through one of his principal secretaries of state, to advance and pay, for and towards the purposes aforesaid or any of them, any sum or sums of money, not exceeding in the whole in any one year the amount of the money raised in that year by any such voluntary contribution as aforesaid; and every such consul general or consul as aforesaid shall in like manner once in every year transmit to one of his Majesty's principal secretaries of state an account, made up to the thirty-first day of December in the year next preceding, of all the sums of money actually raised at any such port or place as aforesaid, for the several purposes aforesaid or any of them, by any such voluntary subscription as aforesaid, and of all sums of money by him actually paid and expended for such purposes or any of them, in obedience to any such orders as aforesaid, and which accounts shall by such principal secretary of state be transmitted to the Treasury, who shall give to such consuls general or consuls credit for all sums of money, not exceeding the amount aforesaid, by him disbursed and expended in pursuance of any such order as aforesaid, for the purposes before mentioned, or any of them.

12. NO SUM TO BE ADVANCED TOWARDS SUCH ERECTION, &C. UNTIL AN ESTIMATE HAS BEEN TRANSMITTED TO AND APPROVED BY HIS MAJESTY, AND THE VOLUNTARY SUBSCRIPTIONS HAVE BEEN ACTUALLY PAID, OR SECURITY FOR PAYMENT GIVEN.—Provided always, that no such order shall be issued as aforesaid through any of his Majesty's principal secretaries of state authorizing the expenditure of money for the erection, purchase, or hiring of any such new church or chapel or hospital as aforesaid, or for the purchase or hiring of any such new burial ground as aforesaid, unless and until such consul general or consul shall first have transmitted to his Majesty, through one of his Majesty's principal secretaries of state, the plan of such intended church or chapel, hospital, or burial ground, with an estimate, upon the oath of some one or more competent person or persons, stating the probable expense of and incident to the erection, purchase, or hiring of any such church, chapel, hospital, or burying ground as aforesaid, and unless and until his Majesty shall have signified, through one of his said principal secretaries of state, his approbation of the said plan and estimate: Provided also, that no money shall actually be disbursed by any such consul general or consul as aforesaid, for any of the purposes aforesaid, unless and until the money to be raised by any such voluntary subscription as aforesaid be actually paid up and invested in some public or other

sufficient security, in the joint names of such consul general or consuls and two trustees appointed for that purpose by the persons subscribing the same, or unless and until two or more of such subscribers shall enter into good and sufficient security to his Majesty, by bond, or otherwise, that the amount of such subscriptions shall actually be paid for the purposes aforesaid, by a certain day to be specified in every such bond or security, and which bond or security shall be preserved in the office of such consul general or consul, and shall by him be cancelled and delivered back to the parties entering into the same, their heirs, executors, or administrators, when and so soon as the condition thereof shall be fully performed and satisfied.

13. SALARIES TO CHAPLAINS NOT TO EXCEED THE SUMS HEREIN MENTIONED—CHAPLAINS HOW TO BE APPOINTED.—Provided also, that the whole salary of any chaplain heretofore appointed or to be appointed to officiate in any such church or chapel in any foreign port or place in Europe shall not exceed in the whole five hundred pounds by the year, or in any foreign port or place not in Europe eight hundred pounds by the year: Provided also, that all such chaplains shall be appointed to officiate as aforesaid by his Majesty, through one of his principal secretaries of state, and shall hold such their offices for and during his Majesty's pleasure, and no longer.

14. MEETINGS OF SUBSCRIBERS TO CHURCHES, CHAPELS, &c.—All consuls general and consuls appointed by his Majesty to reside, and being resident at any foreign port or place wherein any such church or chapel or other place appropriated for the celebration of divine worship, or hospital, or any such burial ground as aforesaid, hath heretofore been or shall hereafter be erected, purchased, or hired, by the aid of any voluntary subscription or rates collected by or imposed upon his Majesty's subjects, or some person or persons for that purpose duly authorized by any writing under the hand and seal of any such consul general or consul, shall, once at the least in every year, and more frequently if occasion shall require, by public advertisement, or in such other manner as may be best adapted for insuring publicity, convene and summon a meeting of all his Majesty's subjects residing at such foreign port or place as aforesaid, to be holden at the public office of such consul general or consul, at some time not more than fourteen days nor less than seven days next after the publication of any such summons; and it shall and may be lawful for all his Majesty's subjects residing or being at any such foreign port or place as aforesaid at the time of any such meeting, and who shall have subscribed any sum or sums of money not less than twenty pounds in the whole, nor less than three pounds by the year, for or towards the purposes before mentioned, or any of them, and have paid up the amount of such their subscriptions, to be present and vote at any such meetings; and such consuls general or consuls shall preside at all such meetings; and in the event of the absence of any such consuls general or consuls, the subscribers present at any such meeting shall, before proceeding to the dispatch of business, nominate one of their number to preside at such meeting; and all questions proposed by the consul general, consul, or person so nominated as aforesaid to preside in his absence, to any such meeting, shall be decided by the votes of the majority in number of the persons attending and being present thereat; and, in the event of the number of such votes being equally divided, the consul general, consul, or person so presiding in his absence, shall give a casting vote.

15. GENERAL MEETINGS MAY ESTABLISH RULES FOR THE MANAGEMENT OF SUCH CHURCHES, &c., SUBJECT TO THE SANCTION OF THE CONSUL, WHO SHALL TRANSMIT THE SAME FOR HIS MAJESTY'S APPROBATION.—It shall and may be lawful for any such general meeting as aforesaid to make and establish, and from time to time, as occasion may require, to revoke, alter, and render, such general rules, orders and regulations as may appear to them to be necessary for the due and proper use and management of such churches, chapels, hospitals, and burial grounds as aforesaid, or for the proper control over and expenditure of the money raised by any such subscription as aforesaid, or otherwise in relation to the matters aforesaid, as may be necessary for carrying into execution the objects of this Act so far as relates to those matters, or any of them: Provided always, that no such rule, order, or regulation as aforesaid shall be of any force or effect unless or until the same shall be sanctioned and approved by the consul general or consul for the time being appointed by his Majesty to reside, and actually resident, at such foreign port or place; and provided also, that the same shall by such consul general or consul be transmitted by the first convenient opportunity for his Majesty's approbation; and that it shall and may be lawful for his Majesty,

by any order to be by him issued through one of his principal secretaries of state, either to confirm or disallow any such rules, orders, and regulations, either in the whole or in part, and to make such amendments and alterations in or additions to the same, or any of them, as to his Majesty shall seem meet, or to suspend for any period of time the execution thereof or any of them, or otherwise to direct or prevent the execution thereof, or any of them, in such manner as to his Majesty shall seem meet; and all orders so to be issued by his Majesty, in relation to the matters aforesaid, through one of his principal secretaries of state, shall be recorded in the office of the said consul general or consul at the foreign port or place to which the same may refer, and shall be of full force, effect, and authority upon and over all his Majesty's subjects there resident.

Ss. **16, 17** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*); *ss.* **18, 19, 21** *rep.* 54 *&* 55 *Vict. c.* 36; *s.* **20** *rep.* 52 *&* 53 *Vict. c.* 10; *s.* **22** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*); *tables rep.* 54 *&* 55 *Vict. c.* 36.]

CHAPTER CXX.

THE COURT OF SESSION ACT, 1825 (*Short Titles Act*, 1896).

AN ACT for the better regulating of the Forms of Process in the Courts of Law in Scotland.[1] [5th July 1825.]

[1] *This Act is rep.* 13 *&* 14 *Vict. c.* 36, *s.* 56, *in so far only as it may be in any respect inconsistent or at variance with the provisions of that Act; it is also rep.* 16 *&* 17 *Vict. c.* 80, *s.* 24, *in so far as inconsistent with the enactment contained in that section.*

[*Preamble.*]

1. SEVEN JUNIOR LORDS OF SESSION TO ACT AS LORDS ORDINARY IN THE OUTER HOUSE; THE OTHER LORDS TO FORM THE INNER HOUSE IN TWO DIVISIONS.—The seven junior ordinary judges of the Court of Session shall be relieved from attendance in the inner house, and shall not sit therein, unless in so far as is herein-after provided, but shall act as lords ordinary in the outer house, to perform the business which by the subsisting acts and usages belong to the office of lords ordinary in the outer house; and the lord president, and three of the senior ordinary judges of the Court of Session, shall form the inner house of the first division, and the lord justice clerk, with the remaining senior ordinary judges, shall form the inner house of the second division; . . . . .

S. 1 *in part rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*)

[*S.* **2**, *relating to summons and defences in ordinary actions, rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

3. PRODUCTION OF WRITINGS FOUNDED ON.—Along with the summons and with the defence the parties shall respectively produce the deeds or writings on which they respectively found, so far as the same are in their custody, or within their power.

4. NO JUDGMENT TO BE PRONOUNCED TILL THE RECORD BE MADE UP AND CLOSED.—In ordinary causes where the defender shall make appearance, and neither party shall abandon the cause, neither the lord ordinary officiating in the outer house, nor the court, shall proceed to give judgment upon the merits in the cause, until the respective averments of the parties in fact, and their pleas in matter of law, shall, as herein-after directed, be set forth on the record, and the record made up and authenticated in manner herein-after appointed.

5. OF THE DISPOSAL OF THE DILATORY DEFENCES—EXPENCES—REVIEW OF JUDGMENT—EXPENCES OF REVIEW—NO APPEAL TO HOUSE OF LORDS ON INTERLOCUTORY JUDGMENT EXCEPT BY LEAVE.—It shall be the duty of the lord ordinary, at the first calling of the cause before him, to hear the parties on the dilatory defences, with power to reserve consideration on such dilatory defences as require probation, until the peremptory defences shall be pleaded, and the record adjusted in the manner herein-after directed; and if the lord ordinary shall sustain the dilatory defences, or any of them, to the effect of dismissing the action, he shall at the same time determine the matter of expences; but if, on the contrary, the said ordinary shall repel the dilatory defences, the cause

shall then, with the exception hereinafter to be mentioned, proceed in its due course of preparation, without any separate interlocutor being pronounced respecting expences, reserving this part of the expence to be disposed of along with the rest of the expence in the final decision of the cause; and the judgment of the lord ordinary on the dilatory defences shall be final, unless the pursuer, where the defences have been sustained and the action dismissed, shall, within twenty-one days from and after the date of the lord ordinary's judgment, apply by a note in manner herein-after directed to have such judgment reviewed by the judges of the inner house, or unless, in the case where the lord ordinary shall have repelled the defences, the defender shall, at the time of pronouncing judgment as aforesaid, give notice of his intention to bring the judgment under review, in which case the lord ordinary, instead of proceeding with the preparation of the cause, shall forthwith give judgment for the expence of that preliminary discussion; and the defender shall then be entitled, at any time within twenty-one days from the date of the interlocutor, to apply by note to the inner house for a review of the lord ordinary's judgment; and if the defender shall not avail himself of the right thus to bring the judgment of the lord ordinary under review, an interim decree, with expence of extract, shall be allowed to go out for the expences for which judgment shall have been given as aforesaid, and in reviewing the lord ordinary's judgment, and adhering to or altering the interlocutor by him pronounced, the court shall also dispose of the matter of expences relative to that preliminary discussion; and if the interlocutor of the lord ordinary repelling the defence shall be adhered to an interim decree shall be pronounced for the expences decerned for by him, with the additional expence in the court, if such shall be allowed, on which interim decree execution may proceed: and it shall not be competent to appeal to the House of Lords against the interlocutory judgment, where the action is not dismissed, unless express leave be given by the court, reserving the effect of the defence if an appeal should afterwards be taken in the cause when finally decided.

[*Ss.* 6–9, *relating to proceedings before the lord ordinary as to summons and defences, and as to condescendences, answers, and notes of pleas, rep.* 36 & 37 *Vict. c.* 91 (*S.L.R.*).]

10. Final Adjustment of Averments of Fact and Notes of Pleas—Condescendences, Answers, and Notes to be signed by the Counsel for the Parties—Record as made up to be signed by Lord Ordinary and to foreclose the Parties in point of fact—No further Amendment allowed—Exception of res noviter veniens ad notitiam—How such new matter to be admitted on the Record.—The parties shall appear before the lord ordinary, for the purpose of finally adjusting their respective averments in fact, and their notes of pleas, when it shall be the duty of the lord ordinary to hear the respective explanations of the parties, and to examine as before directed with the statement of the facts respectively, and of the pleas, as applicable to the summons and cause of action and to the defence, and to suggest any new plea which may to him appear necessary to exhaust the whole disputable matter in law or fact in the cause, after which the adjusted condescendences and answers and relative notes of pleas shall be subscribed by the counsel for the parties; and before any order shall be pronounced, or judgment delivered, as to the disposal of the cause, the record of the pleadings as adjusted shall be authenticated by the lord ordinary by his signature: and the record so made up and authenticated shall be held as foreclosing the parties from the statement of any new averments in point of fact; and no amendment of the libel or new ground of defence shall be allowed after the record shall have been thus completed, under the exception hereafter to be mentioned; the pursuer having it in his power notwithstanding to abandon the cause on paying full expences or costs to the defender, and to bring a new action if otherwise competent: Provided always, that it shall be competent to either party in the course of a cause to state matter of fact noviter veniens ad notitiam, or emerging since the commencement of the action, if on cause shown leave shall be obtained from the lord ordinary or the court so to do, the said party always paying, previous to stating such new matter on the record, such expences as may be deemed reasonable by the lord ordinary or the court; and if leave be granted, the new matter shall within a time to be limited be stated in the shape of a specific condescendence framed as above, accompanied by a note stating the plea in law arising therefrom; and the adverse party shall in such case be ordered within a reasonable time to put in his answer to such condescendence and plea, to be adjusted and made a part of the record as before directed.

11. NOTE OF PLEAS TO FORECLOSE IN POINT OF LAW; EXCEPTION OF NEW PLEAS ADMITTED WITH LEAVE OF THE COURT.—The pleas stated on the record, and authenticated as before directed, shall be held as the sole grounds of action or of defence in point of law, and to which the future arguments of the parties shall be confined: Provided always, that where any new plea or ground in law shall, after the completion of the record as before, be in the course of the cause suggested, either by the lord ordinary or by the judges in the inner house, or by the party, as fit to be discussed in relation to the facts already set forth, it shall and may be competent, with leave of the lord ordinary or of the court, to add such plea to the note of pleas authenticated by the lord ordinary as before.

12. OF ORDERS FOR COMPELLING PARTIES TO LODGE CONDESCENDENCES, &c.—The lord ordinary shall, in every instance, on due consideration of the circumstances, fix the time within which such condescendences and answers shall be lodged, and such time shall not be prorogated, except on payment of the expences previously incurred, unless before the lapse of the time so fixed special application shall be made for such prorogation, nor shall the prorogation in any instance be granted, except on cause shewn, nor oftener than once; and if the party shall fail to lodge his condescendence or answers, as the case may be, within the time originally fixed, or afterwards prorogated, the lord ordinary may hold the summons or defences for such party as his condescendence or answers, finally fixing the averments in point of fact on which he founds.

13. WHEN THE RECORD IS CLOSED THE CAUSE SHALL BE DECIDED.—After the record of the averments and pleas shall have been adjusted and closed as herein-before directed, and when it shall appear that the parties have respectively admitted on the record all the facts requisite to the decision of the cause, so as to render any trial of the facts unnecessary, the lord ordinary may proceed to decide the cause with or without further argument, or he may take the cause to report to the inner house in the form herein-after appointed.

[*Ss.* **14–16** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

17. LORD ORDINARY PRONOUNCING JUDGMENT ON THE MERITS SHALL DETERMINE EXPENCES—HIS INTERLOCUTOR FINAL IN THE OUTER HOUSE, BUT SUBJECT TO REVIEW.—In pronouncing judgment on the merits of the cause, the lord ordinary shall also determine the matter of expences, so far as not already settled, either giving or refusing the same in whole or in part; and every interlocutor of the lord ordinary shall be final in the outer house, subject however to the review of the inner house, in manner herein-after directed.

18. OF THE REVIEW BY THE INNER HOUSE OF JUDGMENTS OF THE LORD ORDINARY—PROCEEDINGS OF THE INNER HOUSE IN REVIEWING THE JUDGMENT OF THE LORD ORDINARY.—When any interlocutor shall have been pronounced by the lord ordinary, either of the parties dissatisfied therewith shall be entitled to apply for a review of it to the inner house of the division to which the lord ordinary belongs; provided that such party shall, within twenty-one days from the date of the interlocutor, print and put into the boxes appointed for receiving the papers to be perused by the judges, a note reciting the lord ordinary's interlocutor, and praying the court to alter the same in whole or in part; *and if the interlocutor of the lord ordinary shall have been pronounced on cases, the party applying for a review shall, along with the note as above directed print and put into the boxes, the cases which have been before the lord ordinary* [*Rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]; and if the interlocutor has been pronounced without cases, the party so applying shall, along with his note as above directed, put into the boxes printed copies of the record authenticated as before, and shall at the same time give notice of his application for review, by delivery of six copies of the note to the known agent of the opposite party; and it shall in no case be competent for either party, to bring any interlocutor of the lord ordinary under review of the inner house, by the form of reclaiming petition as now in use, but only in the mode thus directed; and the inner house shall have power, before proceeding to decide the cause, (where cases have not already been ordered in the outer house,) to appoint parties to prepare and print cases in the form herein-after directed, and whether cases have been sent from the outer house or ordered in the inner house, the court shall allow counsel to be heard before giving judgment in the cause; and that in all causes, before pronouncing judgment, it shall be in the power of the court to order an argument by counsel, as often as they see fit, and

on the whole or on such parts of the cause as shall seem to the court to require further argument.

19. Incidental matters arising in the cause may be reported verbally by the Lord Ordinary to the Inner House.—The lord ordinary may, after intimation to the parties, report verbally to the inner house any incidental matter which may arise in the course of the cause, and such matter so reported by the lord ordinary shall be disposed of upon argument by counsel, unless the court shall, when the matter comes before them, think fit to order cases; and if judgment shall be pronounced by the court, or an order shall be made in respect to the matter so reported, that judgment or order shall be final, and the court shall either settle the expence relative to the point so reported, or reserve consideration thereof to the end of the cause.

20. The Inner House shall hear Counsel when the cause is heard on Cases prepared by its order.— . . . When the cause shall come to be advised by the court . . . on cases prepared by order of the inner house, the court shall give to the counsel an opportunity of being heard before proceeding to judgment.

S. 20 *in part rep.* 36 & 37 *Vict. c.* 91 (*S.L.R.*).

21. Inner House shall decide Expences; its Judgment shall be final in Court of Session.—The inner house shall, in deciding the cause, also determine the matter of expences; and the judgment pronounced by the inner house shall in all causes be final in the Court of Session.

22. Form in which Cases shall be prepared.—Wherever cases shall be ordered, whether by the lord ordinary or by the inner house, the case shall commence with a copy of the record, as authenticated by the lord ordinary; and each ground of law or plea, as stated in the record, shall be separately argued in the case.

23. Causes may be heard by the whole Inner House or by the whole Court—Judgment shall be according to opinion of majority.—In order to preserve uniformity in the decisions of the court, and to settle doubtful questions of law which may arise, the judges of either division may, in all causes in which the judges of the inner house shall be equally divided in opinion, direct the cause to be judged either by the inner house judges of both divisions, or by the whole court, including the lords ordinary; and in such cases as it shall appear to them advisable to have any question occurring before them settled by the judgment of the whole court, the judges of either division may order that such matter shall be heard before the whole judges; and judgment shall in all causes be pronounced according to the opinion of the majority of the judges present; and the interlocutor shall bear to be the judgment of the division before which the cause depends after consulting with the other judges.

24. Judges of either Division may take the opinion of the Permanent Lords Ordinary, and Judgment shall be pronounced according to the opinion of the majority of Judges consulted.—And whereas by an Act of the forty-eighth year of his late Majesty, intituled "An Act concerning the administration of justice in "Scotland, and concerning appeals to the House of Lords," the judges of either division are empowered to require the opinions of the other division, upon questions stated in writing: Be it enacted, that they may on such occasions also be entitled to require the opinion of the permanent ordinaries; and the judgment to be pronounced in the cause shall be according to the opinion of the majority of all the judges so consulted, and shall bear that it is the judgment of the division before which the cause depends after consulting with the other judges.

25. Limitation of Time for Appeals to the House of Lords.—From and after the expiration of fourteen days after the first day of the next session of Parliament the decrees or orders of the Court of Session, whether pronounced before or after that time, shall be final and not subject to be complained of by appeal to the House of Lords, unless the petition of appeal shall be lodged with the clerk of Parliament, or the clerk assistant, within two years from the day of signing the last interlocutor appealed from, or before the end of fourteen days to be accounted from and after the first day of the session or meeting of Parliament for the dispatch of public business next ensuing the said two years: Provided always, that when the person or persons entitled to appeal shall be out of the Kingdom of Great Britain and Ireland, it shall be competent for him or them to enter an appeal at any time within five years from the date of the last interlocutor, if he or they shall remain abroad so long, or

within two years from the time of coming into Great Britain or Ireland; the time allowed to such person or persons for lodging his or their appeal in no case on account of mere absence exceeding the foresaid space of five years, together with the space that may elapse before the end of the fourteenth day from and after the session or meeting of Parliament next after the expiration of the said five years; and in case the person or persons so entitled to appeal shall be under the age of twenty-one years, or non compos mentis, it shall be competent for them, or their heirs or representatives, where no appeal has been previously entered on this behalf, to enter an appeal at any time within two years after full age or coming of sound mind, or after the death of the persons so disqualified and the opening of the succession to the heir, or before the end of fourteen days after the first day of the session or meeting of Parliament next ensuing the said two years.

26. Documents to be laid before the House of Lords in case of Appeal.—When any cause shall be carried by appeal to the House of Lords, the appellant shall lay before the house a copy, certified as authentic by the signature of one of the principal clerks of session, or of one of the assistants of the said clerks, for whom the principal clerks shall be responsible, of the whole records of the averments and pleas authenticated by the lord ordinary in manner above directed; and instead of such cases as are delivered at present to the House of Lords, each party shall present to the House of Lords a case containing a printed copy of the record as authenticated, and of the case presented to the Court of Session, if such there be; and they shall also be at liberty to annex a supplementary statement, containing an account of the further steps which have been taken in the cause since the record was completed, or the former cases prepared, and copies of the interlocutors or parts of interlocutors complained against, with a summary of such additional reasons as may be thought fit, set down in the form now used in the House of Lords.

27. Proceedings in classes of Actions in which the Forms of Process are different from ordinary Causes.—[*Recital*] All rescissory actions, except reductions of the decrees of the Court of Admiralty in maritime causes, shall be inrolled and continue before the junior lord ordinary without being taken by avizandum to the inner house, and thence remitted for discussion; and before the lord ordinary the said actions shall, with such exceptions as the judges under the powers herein-after delegated to them shall think necessary, be prepared and discussed according to the form and method already directed with regard to ordinary actions, but without prejudice to the present forms of actions of reduction in other respects; and in regard to suspensions and reductions of decrees pronounced by the Court of Admiralty in maritime cases, notwithstanding the provisions of an Act passed in the first and second year of his present Majesty, intituled "An "Act for the better regulation of the Court of Admiralty in Scotland," and in respect to all other actions, whether originating in the outer house, or originating by petition, or by petition and complaint, or otherwise, in the inner house, the Court of Session are hereby required, under the powers hereafter expressed, to establish by act of sederunt such forms of process suited to those several causes as shall be most expedient and best adapted for preparing for decision such causes, and for duly separating the matters of fact from the matter of law involved therein, according to the principles and mode of proceeding above provided with regard to ordinary causes, and with power to the court to order such causes to be prepared, discussed, and in the first instance determined in the outer house, or reported to the inner house, as may seem best calculated for the due investigation and decision of such causes.

28. Description and Enumeration of Causes appropriate to the Jury Court.—[*Recital*] . . . The following actions, whether originating in the Court of Session or in the Court of Admiralty, shall be held as causes appropriate to the jury court, and shall, for the purpose of being discussed and determined in that court, be remitted at once to that court in manner herein-after to be directed; namely, all actions on account of injury to the person, whether real or verbal, as assault and battery, libel or defamation; all actions on account of any injury to moveables or to land, when in this last case the title is not in question; all actions for damages on account of breach of promise of marriage, or on account of seduction or adultery; all actions founded on delinquency or quasi delinquency of any kind, where the conclusion shall be for damages only and expences; all actions on the responsibility of shipmasters and owners, carriers by land or water, innkeepers or stablers, for the safe custody and care of goods and commodities,

horses, money, clothes, jewels, and other articles, and in general all actions grounded on the principle of the edict nautæ caupones stabularii; all actions brought for nuisance; all actions of reduction on the head of furiosity and idiotcy, or on facility and lesion, or on force and fear; all actions on policies of insurance, whether for maritime or fire or life insurance; all actions on charter parties and bills of lading; all actions for freight; all actions on contracts for the carriage of goods by land or water; and actions for the wages of masters and mariners of ships or vessels.

S. 28 *in part rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).

29. *Such causes arising in the Court of Session, if appearance be made, shall be remitted to the Jury Court—The like as to causes arising in the Court of Admiralty.—All the actions above enumerated, originating in the Court of Session, shall be first inrolled in the roll called the regulation roll, whether appearance shall have been entered for the defender or not; and if no appearance shall be made when the cause is called, decree shall be pronounced in absence, according to the present practice; but if appearance shall be made for the defender, or as soon as the defender shall be reponed against a decree in absence, the lord ordinary shall forthwith remit the cause to the jury court; and in any of the causes or actions above enumerated, which shall originate in the Court of Admiralty, judgment shall at the first calling before the judge admiral be pronounced, if no appearance shall be made for the defender; but as soon as the defender shall enter appearance, and be reponed against the decree pronounced in absence, the judge admiral shall forthwith remit the cause to the jury court, provided the demand shall amount to forty pounds and upwards, and provided that, if the cause be maritime, caution shall have been found according to the practice of that court: and such causes when remitted to the jury court, from whatever court, shall be prepared, and the record of averments and of pleas completed and authenticated by the jury court, or any one of the judges of that court, in the same manner as is hereby directed to be done in the Court of Session.* [*Rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*)]

[*Ss.* 30–32 *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

33. If the Admissions of the parties render the trial of facts unnecessary, the Jury Court shall remit the questions of Law to Court of Session or Court of Admiralty—Where the facts are disputed, questions of Law, &c., which the Parties desire to be previously determined, may be remitted—Either Party without the concurrence of the other may move the Court to remit any such question—The Interlocutor of one Judge subject to review by the whole Jury Court—The decision of the Jury Court to be final on the question—If it be ordered that the question of Law is to be previously decided, the Cause shall be remitted; and when the question is decided the Cause shall be remitted to the Jury Court for decision on questions of Fact.—If after the record shall have been completed in manner already directed as to causes in the Court of Session, the parties shall, by mutual admissions, render any trial of the facts unnecessary, and leave, in the opinion of the jury court or judge thereof, a question merely of law to be determined, the said jury court, or the judge thereof, after having those admissions put upon record, and subscribed by the counsel for the parties, as already directed for causes in the Court of Session, shall forthwith remit the cause to the ordinary in the Court of Session by whom the same was remitted, or to the judge of the High Court of Admiralty, if the cause originated in that Court, to be proceeded in and determined by those courts respectively; and if, after the record shall have been completed as above, the parties shall not be agreed upon the facts, so as to bring the cause to a question merely of law, but shall concur in a minute or note to the jury court or judge, requiring that any question of law or relevancy arising out of the pleadings, to be specified in such minute or note, shall be determined before going to trial, the said court or judge, if the request shall appear just or reasonable, shall remit such question to the ordinary by whom the cause was remitted, or to the Court of Admiralty, if the cause shall have originated in that court; and the cause shall afterwards proceed in those courts respectively, for the decision of such question of law or relevancy; but if either of the parties shall, without the concurrence of the other, insist that there is a point of law or relevancy which ought previously to trial to be determined, it shall be competent for such party to move for an order to have the cause remitted to the Court of Session, or Court of Admiralty, if the cause have come from that court, and

on such motion it shall by the said jury court, or judge thereof, be determined whether the question raised ought to be decided previous to trial, or left for discussion at the trial, or for decision after verdict; and if such question shall arise before one of the judges of the jury court, he shall have it in his power either to determine the question, or to report it for decision by the whole judges of the jury court, or a quorum thereof, consisting in all cases of not less than three of such judges; and the decision of the said judge of the jury court in the said matter shall be final and conclusive, if not brought under review of the whole jury court, by motion to that effect, made in the said court, and of which due notice shall be given according to the form of giving notices in that court, within ten days after the interlocutor of the said judge shall be pronounced; and the decision of the jury court, either pronounced on the review of the said judge's interlocutor, or on the cause being by him taken to report, shall be final on that question; and if it shall be ordered by the said judge or jury court that such question ought to be determined previous to trial, the cause shall forthwith be remitted to the ordinary of the Court of Session, by whom the same was remitted to the jury court, or to the judge of the High Court of Admiralty respectively, to have that question determined; and when, in either of the cases now specified, the cause shall be remitted to the Court of Session, or to the judge of the High Court of Admiralty, for their decision on a previous question of law, the said Court of Session, or the judge of the Court of Admiralty, shall proceed to determine the same according to the rules and regulations of those respective courts; the determination of the Court of Session being final in that court, and that of the Court of Admiralty subject, as it now is by law, to the review of the Court of Session; and the determination of such previous question of law or relevancy shall not be open to appeal to the House of Lords without leave expressly granted, reserving the full effect of the objection to the decision in any appeal to be finally taken; and after the determination of such question, the cause may be remitted back to the jury court, to be there finally disposed of; and if there shall remain matter of fact to be ascertained between the parties, the said matter shall be tried by jury, and the parties shall forthwith proceed before the said jury court, or one of the judges thereof, to prepare the issue or issues for trial in manner herein-after directed.

[*S.* **34** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

35. List of Witnesses need not be furnished previous to Trial.—[*Recital*] . . . It shall not be necessary for the parties to produce and exchange, as preparatory to the trial, the lists of the witnesses proposed to be examined by them, but the parties shall be at liberty at the trial to adduce and examine such witnesses as they may think fit, without having given any previous notice of their intention to call them.

S. 35 *in part rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).

[*S.* **36** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

37. Motions for new Trials.—[*Recital*] In all cases where issues have been prepared and are sent from the Court of Session for the ascertainment of matter of fact, and the verdict is made returnable to that court, all motions for new trial shall be made in the inner house of that division of the court from which the issue or issues has or have been sent; and motions for new trials shall in all other cases be made in the jury court.

[*Ss.* **38, 39** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

40. Interlocutor of Court of Session in reviewing Judgment of Inferior Court founded on proof allowed and taken there, to be final as to findings of Fact, and subject to Appeal only on points of Law—But in reviewing such Judgments, Court of Session may send Issues of Facts to be tried in the Jury Court, or may remit the whole cause to that Court—Court of Session may remit the cause with Instructions to the Inferior Court—Power to advocate against orders for Proof in Inferior Courts in causes above L40.—When in causes commenced in any of the courts of the sheriffs, or of the magistrates of burghs, or other inferior courts, matter of fact shall be disputed, and a proof shall be allowed and taken according to the present practice, the Court of Session shall, in reviewing the judgment proceeding on such proof, distinctly specify in their interlocutor the several facts material to the case which they find to be established by the proof, and express how far their

judgment proceeds on the matter of fact so found, or on matter of law, and the several points of law which they mean to decide; and the judgment on the cause thus pronounced shall be subject to appeal to the House of Lords, in so far only as the same depends on or is affected by matter of law, but shall, in so far as relates to the facts, be held to have the force and effect of a special verdict of a jury, finally and conclusively fixing the several facts specified in the interlocutor: Provided however, that except in consistorial causes, the Court of Session shall, in reviewing the sentences of inferior judges, have power to send to the jury court such issue or issues, to be tried by jury, as to them shall seem necessary for ascertaining facts which may not have been proved to their satisfaction by the evidence already taken, or which may have been omitted in the cause, the verdict to be returned to the Court of Session, to assist that court in the determination of the cause; and the said court shall also have power to remit the whole cause for trial to the jury court; and in neither of these cases shall it be necessary to have the consent of the parties to the cancelling of the depositions already taken in the cause before proceeding to jury trial, but the Court of Session shall have power to give such directions with regard to the proof already taken, or with regard to any part or parts thereof, as to them shall seem just; to which effect the provision in the foresaid Act of the fifty-ninth year of his late Majesty,[1] in so far as the consent of the parties to the cancelling of the depositions already taken is thereby required, shall be and the same is hereby repealed; and further, the Court of Session shall have power to remit the cause with instructions to the inferior court, if that course shall appear to them the most just and expedient in the circumstances of the case; but it is hereby expressly provided and declared, that in all cases originating in the inferior courts in which the claim is in amount above forty pounds, as soon as an order or interlocutor allowing a proof has been pronounced in the inferior courts (unless it be an interlocutor allowing a proof to lie in retentis, or granting diligence for the recovery and production of papers), it shall be competent to either of the parties, or who may conceive that the cause ought to be tried by jury, to remove the process into the Court of Session, by bill of advocation, which shall be passed at once without discussion and without caution; and in case no such bill of advocation shall be presented, and the parties shall proceed to proof under the interlocutor of the inferior court, they shall be held to have waived their right of appeal to the House of Lords against any judgment which may thereafter be pronounced by the Court of Session, in so far as by such judgment the several facts established by the proof shall be found or declared.

[1] 59 *Geo.* 3, *c.* 35.

[*Ss.* **41–43** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

44. Judgments of Inferior Courts removing Tenants to be subject only to Suspension.—When any judgment shall be pronounced by an inferior court, ordaining a tenant to remove from the possession of lands or houses, the tenant shall not be entitled to apply as above, by bill of advocation to be passed at once, but only by means of suspension, as herein-after regulated.

45. Bills of Advocation of Interlocutory Judgments of Inferior Courts.—And whereas, under the foresaid Act passed in the fiftieth year of his late Majesty,[2] bills of advocation are admitted against interlocutory judgments in certain cases: Be it further enacted, that when such bills of advocation shall be passed, it shall not be necessary for the complainer to find caution, except for expences, as in other cases of advocation above mentioned; and all interlocutors by the lord ordinary on the bills, passing or refusing such bills of advocation, shall be final.

[2] 50 *Geo.* 3, *c.* 112.

46. Lord Ordinary may pass Bills of Suspension—Proceedings as to Interlocutors of Lord Ordinary complained of—Expences of Suspender on Bills of Suspension.—In all cases, without distinction, the lord ordinary on the bills may pass bills of suspension, without requiring the concurrence of the inner house during session, or of one or more ordinaries during vacation; and in complaining of any interlocutor pronounced by the lord ordinary on the bills, the party shall proceed, not as at present by reclaiming petition, but by presenting a printed note to the inner house, stating the nature of the bill, reciting the interlocutor, and praying for an alteration thereof; and upon such note being presented the inner house shall order the counsel for the parties

to be heard, and on hearing them shall either grant or refuse the application, or appoint parties to give in mutual cases on the question; and thereafter the court shall either refuse the application, or remit to the lord ordinary to pass or to refuse the bill, or to remit to the inferior judge with instructions; and any interlocutor of the court refusing such application, or of the lord ordinary on a remit from the court, shall be final; and when a bill of suspension shall have been passed on a remit from the inner house, or in consequence of the lord ordinary having taken the cause to report to the inner house, the letters of suspension shall be discussed before a lord ordinary of that division, unless remitted ob contingentiam to some previous process depending before the other division; and in the event of bills of suspension being passed of decrees of inferior courts, it shall be competent for the lord ordinary or the court to find the suspender entitled to his expences in the inferior court, as well as in the Court of Session.

47. Cautioners in Bills of Suspension.—Cautioners in a bill of suspension shall be liable to fulfil the obligation in their bond, although the letters of suspension shall not be expede before the day of citation appointed in the deliverance, and also in the case of the chargers obtaining and duly extracting protestation for not enrolling, calling, and insisting.

48. As to cases of Suspension before the Lord Ordinary.—The lord ordinary in the outer house, before whom any suspension . . . shall come to be discussed, shall proceed in preparing the cause for judgment after the manner already directed as to causes in the outer house; and the party resisting the suspension shall be required, by way of defence in the outer house, to return answers to the reasons of suspension.

S. 48 *in part rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).

[*S.* **49** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

50. Powers to the Judges of the Court of Session to make Regulations for carrying Act into effect.—The Court of Session, . . . assembled by the lord president of the Court of Session, shall be and they are hereby empowered and required accordingly to make such orders and regulations concerning the forms of process, and such arrangements in respect of attendance and hours of doing business, and generally for regulating the proceedings of the Court of Session *and of the jury court* [*Rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*)], as may most effectually carry into execution the purposes of this Act, and remove any difficulties which may in the details of practice be found to arise in expediting the business before the said courts, and of the court of the lords commissioners for plantation of kirks and valuation of teinds, provided the same be not inconsistent with the provisions of this Act; and the said judges assembled as above shall also have power to make such regulations and arrangements in respect of the time and rotation of the business in the said courts, and before lords ordinary, as may most effectually secure the due performance of the respective duties of the said courts, and of the judges thereof; and the said judges assembled as before, shall have power and are hereby required to make such regulations and orders relative to the forms of proceeding in . . . inferior courts as may be best calculated to carry into execution the purposes of this Act; and it is hereby provided, that the said judges assembled as above may meet for the above purposes during vacation, as well as during session, and that they may alter and amend such regulations from time to time.

S. 50 *in part rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).

51. Regulation of Forms of Citation, Charge, &c. as against persons forth of Scotland—Abstracts to be kept.—The subsisting forms of edictal citation, charge, publication, citation, and service at the Market Cross of Edinburgh, pier and shore of Leith, as against persons forth of Scotland, shall cease and be discontinued; and in lieu thereof such edictal citations, charges, publications, citations, and services at the Market Cross of Edinburgh, pier and shore of Leith, as against persons forth of Scotland, shall be done and performed by delivery of a a copy thereof at the record office of the keeper of the records of the Court of Session, in the manner now practised in cases of citation or charge at the dwelling house of a party not personally apprehended; and the keeper of the records or his clerk shall forthwith register, in a book to be kept for that purpose, an abstract of the copy so delivered, exhibiting the time of service, of the nature of the writ, the names and designation of the parties, and the day against which the party

shall be called upon to give obedience, or to make appearance; and the keeper of the said records shall keep three distinct and separate registers, one for all citations on summonses and orders of service, as against persons forth of Scotland, to appear before the several supreme civil courts respectively; another record for all citations by virtue of letters of supplement, to persons forth of Scotland, to appear before any of the inferior courts of Scotland; and a third for all charges, intimations, and publications, to persons forth of Scotland given by virtue of letters other than summonses passing the signet.

52. Such Abstracts to be printed.—The said abstracts, in so far as they comprehend citations by virtue of summonses, precepts, warrants of court, and letters of supplement, shall periodically be printed by the keeper of the said records; and this publication by means of printing shall commence at the distance of fourteen days from the said eleventh day of November next, and shall regularly be continued at the end of each successive fourteen days; and at all times the said register of charges, citations, and publications shall be open to inspection; and the copies of charge, citation, and service, which shall be lodged as above with the keeper of the record or his clerk, shall be preserved during three years; and it shall be competent to the Court of Session to fix such allowance for the trouble and expence of the duty thus imposed on the keeper of the records, to be paid to him from the fee fund, as to the said court shall seem reasonable.

53. Defenders to be cited on one Diet only.—The practice of citing defenders to appear on two diets of court shall in all cases cease, and all summonses shall proceed on one diet only; viz^{t}., privileged summonses, against defenders within Scotland, on one diet of six days, other summonses, against defenders residing in Orkney and Shetland, a diet of forty days, and for all other persons within Scotland, a diet of twenty-seven days, and for defenders out of Scotland, a diet of sixty days; and where a person not having a dwelling house in Scotland occupied by his family or servants shall have left his usual place of residence, and have been therefrom absent during the space of forty days without having left notice where he is to be found within Scotland, he shall be held to be absent from Scotland, and be charged or cited according to the forms herein prescribed accordingly.

54. Of the Court of Teinds—Certain Actions to be brought before the Court of Session.—[*Recital*] All actions for the valuation or sale of teinds, or actions of proving the tenor of the same, all actions of suspension or reduction of localities, and all actions of declarator or reduction connected with teinds, which can at present be competently brought before the said lords commissioners for the plantation of kirks, shall be brought before and be decided by one or other of the divisions of the Court of Session, who shall be held as a quorum of the said commissioners; and all such causes shall be proceeded in, as nearly as possible, according to the forms prescribed by this Act for the preparation of causes in the Court of Session; and the lord ordinary shall have the same power to determine the cause, or to report the same to the inner house, as is declared to be competent by this Act to the lord ordinary in the outer house in causes before the Court of Session; and in like manner he shall not be entitled to review his own interlocutors, but the same shall be subject to review only in the inner house in the manner directed in causes before the Court of Session: Provided always, that the jurisdiction of the lords commissioners for plantation of kirks and valuation of teinds, in assigning or modifying competent stipends to the parochial clergy out of the teinds of the parish, and in uniting and disjoining parishes, and generally whatever jurisdiction the said court of teinds may possess of a ministerial and discretionary nature, shall nowise be altered or affected by this Act, but the same shall continue to be exercised by the whole lords commissioners for plantation of kirks and valuation of teinds, or quorum thereof, in the same way and manner as heretofore; but all actions in relation to locallings of modified or augmented stipends among heritors, and other causes which may be remitted by the said lords commissioners to a lord ordinary, shall thereafter be conducted as nearly as may be according to the forms prescribed for causes before the Court of Session, and the interlocutors of such lord ordinary shall be subject to review only by the division of the Court of Session to which such lord ordinary belongs, which division shall to that effect be held as a quorum of the said commissioners; and in all the aforesaid actions, and in all other matters connected with teinds, the teind clerk shall continue as heretofore to officiate as clerk.

[*Ss.* **55, 56** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

57. ALL QUESTIONS IN SCOTLAND RELATING TO PRIZE IN WAR, TO VEST SOLELY IN COURT OF ADMIRALTY OF ENGLAND.—All questions and matters in Scotland relating to prize and capture in war, and the condemnation of ships and vessels as such, shall be vested solely in the High Court of Admiralty of England; . . . . . .

S. 57 in part rep. 53 & 54 Vict. c. 33 (S.L.R.).

58. ACTS OF SEDERUNT REGULATING PROCEEDING OF COURTS IN SCOTLAND TO BE TRANSMITTED TO PARLIAMENT.—Within fourteen days from the commencement of every future session of Parliament there shall be transmitted to both Houses of Parliament copies of all acts of sederunt settling the rules of proceedings of the courts of Scotland, as fixed under the powers herein given.

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7 GEORGE 4, 1826.

CHAPTER VIII.

THE JURIES (SCOTLAND) ACT, 1826 (*Short Titles Act*, 1896).

AN ACT to amend so much of an Act of the last Session of Parliament, for regulating the Qualification and the Manner of enrolling Jurors in Scotland, and of choosing Jurors in Criminal Trials there, and to unite Counties for the Purposes of Trial in Cases of High Treason in Scotland, as relates to the Qualification of Special Jurors. [22d March 1826.]

[*Preamble recites 6 Geo. 4, c. 22, & 55 Geo. 3, c. 42.*]

1. CERTAIN PERSONS QUALIFIED AS SPECIAL JURORS IN SCOTLAND; IN ADDITION TO THOSE ALREADY QUALIFIED.—Every person residing within any county in Scotland, who shall be infeft in and possessed of lands and heritages in any part of Scotland, yielding the sum of one hundred pounds sterling of real rent per annum, or upwards, at the time, and also every person residing within any county in Scotland, who shall be possessed of personal property to the amount of one thousand pounds sterling or upwards, shall be qualified to serve as a special juror in Scotland, inclusive of and in addition to those persons qualified to serve as special jurors in terms of the aforesaid Act passed in the fifty-fifth year of the reign of his late Majesty.

2. NAMES OF PERSONS SO QUALIFED TO BE ADDED TO THE SPECIAL JURY BOOK.—As soon as conveniently may be after the passing of this Act the sheriff of every county in Scotland shall select from the list of jurors contained in the general jury book of the county whereof he is sheriff the names of all persons qualified to be special jurors in terms of this Act; and such names so selected shall be entered in the special jury book of such county, as persons liable to serve as special jurors: Provided always, that in making such selection the sheriff shall take the names of such jurors in the order in which they stand in the said general jury book, and shall enter the said names in the same order in the special jury book, immediately after the names which shall have been entered in the said special jury book at the time of the passing of this Act; and provided also, that in case the names of special jurors entered in the special jury book shall have been all returned to serve as jurors before the names contained in the general jury book shall in like manner have been gone through, the sheriff, in making returns of special jurors, shall recommence to take the names from the top of the list entered in the special jury book, and shall so return the names in their regular order in which they stand in the said book, until new lists shall be prepared.

3. THE NUMBER OF SPECIAL JURORS ENTERED IN SPECIAL JURY BOOK SHALL NOT EXCEED ONE-THIRD OF THE NUMBER OF COMMON JURORS—JURORS QUALIFIED AS SPECIAL BUT NOT ENTERED IN THE BOOK SHALL BE LIABLE TO SERVE AS COMMON JURORS.—[*Recital*] The number of special jurors to be entered at any time in the special jury book for any county shall not exceed one-third of the total number of common jurors entered in the

general jury book of such county, after the names of the special jurors shall have been deducted therefrom: Provided always, that any juror who, although qualified to serve as a special juror, may, in consequence of this provision, not have his name entered in the special jury book, shall be deemed to be and shall serve as a common juror.

4. NAMES OF JURORS DYING OR BECOMING DISQUALIFIED MAY BE PASSED OVER IN MAKING RETURNS OF JURORS.—In case any person whose name shall have been entered either in the said general jury book, or in the said special jury book, shall die, or become disqualified as a juror, whether from loss of property, absence, or other legal cause, it shall and may be lawful for the sheriff, in making returns of jurors, as directed by the said recited Act, to pass over the name of every such person, provided the date at which the name of such person shall have been so passed over, and the reason thereof, shall be entered at the time in the said general jury book or the said special jury book, as the case may be.

5. THIS ACT AND RECITED ACT 6 GEO. 4, C. 22, TO BE CONSTRUED TOGETHER.—This Act, and said recited Act passed in the last sessions of Parliament, shall be construed and receive effect together, in the same manner as if this Act had made part of the said recited Act.

CHAPTER XXXII.

THE BOARD OF TRADE (PRESIDENT) ACT, 1826 (*Short Titles Act*, 1896).

AN ACT to amend an Act for suppressing or regulating certain Offices therein mentioned, so far as relates to the Board of Trade. [5th May 1826.]

[*Preamble.*]

1. HIS MAJESTY MAY DIRECT A SALARY NOT EXCEEDING L.2000 TO BE PAID TO THE PRESIDENT OF THE COMMITTEE OF COUNCIL FOR TRADE.—It shall be lawful for his Majesty, by any order or warrant under his royal sign manual, countersigned by the Treasury, to order and direct that the president of the committee of council appointed for the consideration of matters relating to trade and foreign plantations, for the time being, shall have a salary not exceeding two thousand pounds, and such office shall not, by reason of such salary being annexed thereto, be deemed a new office: . . . .

S. 1 *in part rep.* 51 *&* 52 *Vict. c.* 57 (*S.L.R.*).

CHAPTER XXXVIII.

THE ADMIRALTY OFFENCES ACT, 1826 (*Short Titles Act*, 1896).

AN ACT to enable Commissioners for trying Offences upon the Sea, and Justices of the Peace, to take Examinations touching such Offences, and to commit to safe Custody Persons charged therewith. [5th May 1826.]

[*Preamble.*]

1. COMMISSIONERS FOR TRYING OFFENCES AT SEA, OR JUSTICES, MAY TAKE EXAMINATIONS TOUCHING OFFENCES COMMITTED WITHIN THE JURISDICTION OF THE ADMIRALTY, AND COMMIT THE PERSONS CHARGED.—It shall and may be lawful to and for any one or more of the commissioners for the time being, named or to be named in the commission of oyer and terminer, for the trying of offences committed within the jurisdiction of the Admiralty of England, and also to and for any one or more of the commissioners for the time being, named or to be named in any commission made or granted under or by virtue of the said Act of the forty-sixth year of King George the Third, and also to and for any one or more of his Majesty's justices of the peace for the time being for any county, riding, division, or place, in the United Kingdom, and they are hereby respectively authorized, empowered, and required, from time to time to take any information or informations of any witness or witnesses upon oath, which oath they and each of them are hereby respectively authorized to administer, touching any treason, piracy, felony, robbery, murder, conspiracy, or other offence of what nature or kind soever, committed

upon the sea, or in any haven, river, creek, or place where the admiral or admirals hath or have power, authority, or jurisdiction; and thereupon (if such commissioner or commissioners, justice or justices of the peace, shall see cause), by any warrant or warrants under his or their hand and seal or hands and seals, to cause the person or persons charged in such information or informations to be apprehended and committed to safe custody, to remain in such custody until discharged in due course of law, or until bailed, in cases in which bail may by law be taken.

CHAPTER LVIII.

THE YEOMANRY ACT, 1826 (*Short Titles Act*, 1896).

AN ACT to amend the Laws relating to Corps of Yeomanry Cavalry . . . in Great Britain. [26th May 1826.]

Title in part rep. 53 & 54 *Vict. c.* 51 (*S.L.R.*).

[*Preamble recites* 44 *Geo.* 3, *c.* 54.]

[*S.* **1** *rep.* 36 & 37 *Vict. c.* 91 (*S.L.R.*).]

2. CERTIFICATES AND RETURNS, REQUIRED BY 44 GEO. 3, C. 54, S. 9, TO BE SENT TO CLERKS OF GENERAL MEETINGS OF LIEUTENANCY, AND TO SECRETARY OF STATE IN THE MONTH OF AUGUST IN EVERY YEAR.—And whereas by the said recited Act it is provided that all officers commanding corps of yeomanry on the first days of April, August, and December respectively in every year, or within fourteen days after such days, shall transmit returns and certificates to the clerks of the general meetings of lieutenancy, in the forms in the schedules to the said Act annexed, marked (A.) and (B.), and also at the same periods shall transmit to his Majesty's principal secretary of state and to the general officer commanding the district (when any such shall be appointed), accurate returns of their respective corps, specifying the numbers of the effective and non-effective men in their corps at the time of making such returns: And whereas it is expedient that such certificates and returns should be transmitted once only in each year instead of three times: Be it enacted, that all officers commanding corps of yeomanry shall transmit the certificates and returns aforesaid, to the clerks of general meetings of lieutenancy, and to his Majesty's principal secretary of state, and to the general officer commanding the district respectively, on the first day of August in every year, or within fourteen days after that date, instead of at the times aforesaid.

3. CLERKS OF GENERAL MEETINGS TO TRANSMIT EXTRACTS FROM RETURNS TO CLERKS OF SUBDIVISION MEETINGS, AND ABSTRACT OF MUSTER ROLLS IN FORM IN SCHEDULE (A.) TO SECRETARY OF STATE.—The clerks of the general meetings of the several counties in Great Britain shall, on or before the first day of August in every year, after they shall receive such certificates and returns as aforesaid transmit to the clerks of the subdivision meetings extracts therefrom, containing the names of the persons in each subdivision returned therein as effective members, and shall also on the said first day of August in every year transmit to his Majesty's principal secretary of state, and to his Majesty's secretary at war, abstracts in the form to this Act annexed, marked (A.), of the several muster rolls sent to them respectively, under the provisions of this Act and of the said recited Acts.

[*S.* **4** *rep.* 47 & 48 *Vict. c.* 55, *s.* 8; *s.* **5** *rep.* 50 & 51 *Vict. c.* 36, *s.* 2.]

SCHEDULE (A.).

ABSTRACT OF MUSTER ROLLS to be transmitted by Clerks to General Meetings of Counties to His Majesty's Principal Secretary of State, and to His Majesty's Secretary at War.

Abstract of Muster Rolls of the Corps and Companies of Yeomanry within the county of , received by his Majesty's Lieutenant for the same between the day of and the day of

Names and Description of Corps, Troops, and Companies.	Number of Persons borne upon the Establishment of each Corps, Troop, or Company.	Number of Persons enrolled and serving therein.	Number of Persons exempt from serving in the Militia.	Number of Persons not exempt.	When inspected, and if willing to be so.
Total					

Dated at this day of } ——— { Clerk to the General Meetings.

[*Table (B.) rep.* 50 *&* 51 *Vict. c.* 36, *s.* 2.]

CHAPTER LXVII.

THE BANKERS (SCOTLAND) ACT, 1826 (*Short Titles Act*, 1896).

AN ACT to regulate the Mode in which certain Societies or Copartnerships for Banking in Scotland may sue and be sued. [26th May 1826.]

Whereas the practice has prevailed in Scotland of instituting societies possessing joint stocks, the shares of which are either conditionally or unconditionally transferable, for the purpose of carrying on the business of banking; and it is expedient that every such society or copartnership should be enabled to sue and be sued in the name of its manager, cashier, or other principal officer:

1. BANKING COPARTNERSHIPS IN SCOTLAND MAY SUE AND BE SUED IN THE NAME OF THEIR MANAGER, &c.—It shall and may be lawful for every such joint stock society or copartnership, already established or that may hereafter be established in Scotland for the purposes of banking, to sue and be sued in the name of the manager, cashier, or other principal officer of such society or copartnership, provided that such joint stock society or copartnership shall observe the regulations prescribed by this Act.

2. SUCH SOCIETIES SHALL YEARLY DELIVER, AT THE STAMP OFFICE IN EDINBURGH, A RETURN CONTAINING THE NAME OF THE FIRM, LIST OF MEMBERS, AND OF BANKS ESTABLISHED, NAME OF PUBLIC OFFICER, &C. IN THE FORM IN THE SCHEDULE MARKED (A.).—Every such joint stock society or copartnership already formed shall, between the twenty-fifth day of May and the twenty-fifth day of July in this and each succeeding year, and every such joint stock society or copartnership hereafter to be formed, shall, before such joint stock society or copartnership shall begin to carry on business, and thereafter in each succeeding year, between the said twenty-fifth day of May and the twenty-fifth day of July, cause an account or return to be made out according to the form contained in the schedule marked (A.) to this Act annexed, wherein shall be set forth the true names, title, or firm of such intended or existing society or copartnership, and also the names and places of abode of all the members of such society, or of all the partners concerned or engaged in such copartnership, as the same respectively shall appear on the books of such society or copartnership, and the name or firm of every bank or banks established or to be established by such society or copartnership, and also the name and place of abode of the manager, cashier, or other principal officer, in the name of whom such society or copartnership shall sue and be sued, as herein-after provided,

and also the name of every town and place where any of the bills or notes of such society or copartnership shall be issued by any such society or copartnership, or by their agent or agents; and every such account or return shall be delivered to the head collector of stamp duties at the stamp office in Edinburgh, who shall cause the same to be filed and kept in the stamp office there, and an entry and registry thereof to be made in a book or books to be there kept for that purpose, and which book or books any person or persons shall from time to time have liberty to search and inspect, on payment of the sum of one shilling for every search.

3. Returns to be verified on Oath.—Such account or return shall be made out by the officer named as aforesaid, and shall be verified by the oath of such officer taken before any justice of the peace, and which oath any justice of the peace is hereby authorized and empowered to administer, and such account or return shall, between the twenty-fifth day of May and the twenty-fifth day of July in every year, be in like manner delivered by such officer as aforesaid to the said collector, to be filed and kept in the manner and for the purposes as herein-before mentioned.

4. Certified Copies of such Returns to be evidence of the Appointment of the Public Officers, &c.—A copy of any such account or return, so filed or kept and registered at the stamp office, as by this Act is directed, and which copy shall be certified to be a true copy, under the hand of the said collector, or of the comptroller of the stamp duties at Edinburgh, shall in all proceedings, civil or criminal, and in all cases whatsoever, be received in evidence as proof of the appointment and authority of the officer named in such account or return, and also of the fact that all persons named therein as members of such society or copartnership were members thereof at the date of such account or return.

5. Commissioners of Stamps to give certified Copies of Returns on payment of 10s.—The said collector or comptroller for the time being shall and he is hereby required, upon application made to him by any person or persons requiring a copy, certified according to this Act, of any such account or return as aforesaid, in order that the same may be produced in evidence, or for any other purpose, to deliver to the person or persons so applying for the same such certified copy, he, she, or they paying for the same the sum of ten shillings and no more.

6. Returns of new Officers or Members, &c. in the course of any year to be made in the form in the Schedule marked (B.).—Provided also, that the manager or other officer of every such society or copartnership shall, and he is hereby required, from time to time, as often as occasion shall render it necessary, make out upon oath, in manner herein-before directed, and cause to be delivered to the said collector as aforesaid, a further account or return according to the form contained in the schedule marked (B.) to this Act annexed, of the name of any person who shall have been nominated or appointed a new or additional officer of such society or copartnership, in whose name the same shall sue and be sued, and also of the name or names of any person or persons who shall have ceased to be members of such society or copartnership, and also of the name or names of any person or persons who shall have become a member or members of such society or copartnership, either in addition to or in the place or stead of any former member or members thereof, and of the name or names of any new or additional town or towns, place or places, where such bills or notes are or are intended to be issued, and where the same are to be made payable; and such further accounts or returns shall from time to time be filed and kept, and entered and registered at the stamp office in Edinburgh, in like manner as is herein-before required with respect to the original or annual account or return herein-before directed to be made.

7. Copartnerships shall sue and be sued in the name of their Officer—How Property shall be laid in Indictments, &c.—Suits not to abate by Death, &c. of Public Officer.—All actions and suits, and also all petitions to found any sequestration in Scotland, or commission of bankruptcy in England, against any person or persons who may be at any time indebted to any such copartnership carrying on business under the provisions of this Act, and all proceedings at law or in equity under any sequestration or commission of bankruptcy, and all other proceedings at law or in equity, to be commenced or instituted for or on behalf of any such copartnership, against any person or persons, bodies politic or corporate, or others, whether members of such copartnership or otherwise, for recovering any debts or enforcing any claims or demands due to such copartnership, or for any other matter relating to the concerns of such copartnership, shall

and lawfully may, from and after the passing of this Act, be commenced or instituted and prosecuted in the name of the officer named as aforesaid for the time being of such copartnership, as the nominal pursuer, plaintiff, or petitioner, for and on behalf of such copartnership; and all actions or suits, and proceedings at law or in equity, to be commenced or instituted by any person or persons, bodies politic or corporate, or others, whether members of such copartnership or otherwise, against such copartnership, shall and lawfully may be commenced, instituted, and prosecuted against the officer named as aforesaid for the time being of such copartnership, as the nominal defender or defendant for and on behalf of such copartnership; and all indictments, informations, and prosecutions by or on behalf of such copartnership, for any stealing or embezzlement of any money, goods, effects, bills, notes, securities, or other property of or belonging to such copartnership, or for any fraud, forgery, crime, or offence committed against or with intent to injure or defraud such copartnership, may be had, preferred, and carried on in the name of the officer named as aforesaid for the time being of such copartnership; and in all indictments and informations to be had or preferred by or on behalf of such copartnership against any person or persons whomsoever, it shall be lawful and sufficient to state the money, goods, effects, bills, notes, securities, or other property of such copartnership to be the money, goods, effects, bills, notes, securities, or other property of the officer named as aforesaid, for the time being, of such copartnership; and any forgery, fraud, crime, or other offence, committed against or with intent to injure or defraud any such copartnership, shall and lawfully may in such indictment or indictments, notwithstanding as aforesaid, be laid or stated to have been committed against or with intent to injure or defraud the officer named as aforesaid, for the time being of such copartnership; and any offender or offenders may thereupon be lawfully convicted for any such forgery, fraud, crime, or offence; and in all other allegations, indictments, informations, or other proceedings of any kind whatsoever, in which it otherwise might or would have been necessary to state the names of the persons composing such copartnership, it shall and may be lawful and sufficient to state the name of the officer named as aforesaid, for the time being, of such copartnership; and the death, resignation, removal, or any act of such officer shall not abate or prejudice any such action, suit, indictment, information, prosecution, or other proceeding commenced against, or by or on behalf of such copartnership, but the same may be continued, prosecuted, and carried on in the name of any other manager, cashier, or other principal officer of such copartnership for the time being.

8. NOT MORE THAN ONE ACTION TO BE BROUGHT FOR THE RECOVERY OF ONE DEMAND.—No person or persons, or body or bodies politic or corporate, having or claiming to have any demand upon or against any such society or copartnership, shall bring more than one action or suit, in case the merits shall have been tried in such action or suit, in respect of such demand; and the proceedings in any action or suit by or against the officer named as aforesaid, for the time being, of any such copartnership, may be pleaded in bar of any other action or actions, suit or suits, for the same demand, by or against such copartnership.

9. DECREES, &C. AGAINST THE PUBLIC OFFICER TO TAKE EFFECT AGAINST THE COPARTNERSHIP, AND THE MEMBERS, AND THEIR PROPERTY.—All and every decree or decrees, order or orders, interlocutor or interlocutors, made or pronounced in any suit or proceeding in any court of law or equity against the officer named as aforesaid of any such copartnership carrying on business under the provisions of this Act, shall have the like effect and operation upon and against the property and funds of such copartnership, and upon and against the persons and property of every or any member or members thereof, as if every or any such members of such copartnership were parties before the court to and in any such suit or proceeding; and such order, interlocutor, and decree shall be enforced against every or any member of such copartnership, in like manner as if every such member of such copartnership was a party before such court to and in such suit or proceeding.

10. JUDGMENTS AGAINST OFFICER SHALL OPERATE AGAINST THE COPARTNERSHIP, AND THE MEMBERS, AND THEIR PROPERTY, AND NOT TO BE AFFECTED BY BANKRUPTCY, &C. OF PUBLIC OFFICER.—All and every judgment and judgments, decree or decrees, in any action, suit, or proceedings in law or equity against the officer named as aforesaid of any such copartnership, shall have the like effect and operation upon and against the property of such copartnership, and upon and against the property of every such member thereof

as aforesaid, as if such judgment or judgments had been recovered or obtained against such copartnership; and the bankruptcy, insolvency, or stopping payment of such officer for the time being of such copartnership, in his individual character or capacity, shall not be nor be construed to be the bankruptcy, insolvency, or stopping payment of such copartnership; and such copartnership and every member thereof, and the capital stock and effects of such copartnership, and the effects of every member of such copartnership, shall in all cases, notwithstanding the bankruptcy, insolvency, or stopping payment of any such officer, be attached and attachable, and be in all respects liable to the lawful claims and demands of the creditor and creditors of such copartnership, or of any member or members thereof, as if no such bankruptcy, insolvency, or stopping payment of such officer had happened or taken place.

11. Officers and Members to be indemnified by the Copartnership and other Members.—Provided always, that such officer in whose name any such suit or action shall have been commenced, prosecuted, or defended, and every person or persons against whom execution upon any judgment obtained or entered up as aforesaid in any such action shall be issued as aforesaid, shall always be reimbursed and fully indemnified for all loss, damages, costs, and charges which such officer or person may have incurred by reason of such execution, out of the funds of such copartnership, or in failure thereof, from the funds of the other members of such copartnership, as in the ordinary cases of copartnership.

[*S.* **12** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

13. Only four Licences need be taken out by Copartnerships issuing Notes at different Places.—Provided always, that no such society or copartnership shall be obliged to take out more than four licences for the issuing of any promissory notes for money payable to the bearer on demand, allowed by law to be re-issued, in all, for any number of towns or places in Scotland; and in case any such society or copartnership shall issue such promissory notes as aforesaid, by themselves or their agents, at more than four different towns or places in Scotland, then, after taking out three distinct licences for three of such towns or places, such society or copartnership shall be entitled to have all the rest of such towns or places included in a fourth licence.

14. Penalty on Copartnership neglecting to send Returns, L.500 weekly—Penalties for making false Returns—False Swearing to be Perjury.—If any such society or copartnership, carrying on the business of bankers under the authority of this Act, shall issue any bills, or notes, or to[1] borrow or owe or take up any money on their bills or notes, without having caused such account or return as aforesaid to be made out and delivered in the manner and form directed by this Act, or shall neglect or omit to cause such account or return to be renewed yearly and every year between the days or times herein-before appointed for that purpose, such society or copartnership so offending shall, for each and every week they shall so neglect to make such account and return, forfeit the sum of five hundred pounds; and if any officer of such society or copartnership shall make out or sign any false account or return, or any account or return which shall not truly set forth all the several particulars by this Act required to be contained or inserted in such account or return, the society or copartnership to which such officer so offending shall belong shall for every such offence forfeit the sum of five hundred pounds, and the said officer so offending shall also for every such offence forfeit the sum of one hundred pounds; and if any such officer making out or signing any such account or return as aforesaid shall knowingly and wilfully make a false oath of or concerning any of the matters to be therein specified and set forth, every such officer so offending, and being thereof lawfully convicted, shall be subject and liable to such pains and penalties as by any law now in force persons convicted of wilful and corrupt perjury are subject and liable to.

[1] *So in Parliament Roll.*

15. Penalties how to be recovered.—All pecuniary penalties and forfeitures imposed by this Act shall and may be sued for and recovered in his Majesty's Court of Exchequer at Edinburgh, in the same manner as penalties incurred under any Act or Acts relating to stamp duties may be sued for and recovered in such court.

[*S.* **16** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

SCHEDULE referred to by this Act.

SCHEDULE (A.)

RETURN or ACCOUNT to be entered at the Stamp Office in Edinburgh, in pursuance of an Act passed in the Seventh Year of the Reign of King George the Fourth, intituled [here insert the Title of this Act]; viz.

Firm or name of the banking society or copartnership, viz. [set forth the firm or name].

Names and places of abode of all the partners concerned or engaged in such society or copartnership, videlicet [set forth all the names and places of abode].

Names and places of the bank or banks established by such society or copartnership, videlicet [set forth all the names and places].

Name and description of the officer of the said banking society or copartnership in whose name such society or copartnership shall sue and be sued, videlicet [set forth the name and description].

Names of the several towns and places where the bills or notes of the said banking society or copartnership are to be issued by the said society or copartnership, or their agent or agents, videlicet [set forth the names of all the towns and places].

A.B. of , manager [or other officer, describing the office] of the above society or copartnership, maketh oath and saith, that the above doth contain the name, style, and firm of the above society or copartnership, and the names and places of the abode of the several members thereof, and of the banks established by the said society or copartnership, and the name, title, and description of the officer of the said society or copartnership in whose name such society or copartnership shall sue and be sued, and the names of the towns and places where the notes of the said society or copartnership are to be issued, as the same respectively appear in the books of the said society or copartnership, and to the best of the information, knowledge, and belief of this deponent.

Sworn before me, the day of , at in the county of .

C.D. Justice of the Peace in and for the said County.

SCHEDULE (B.)

RETURN or ACCOUNT to be entered at the Stamp Office in Edinburgh, on behalf of [name the society or copartnership,] in pursuance of an Act passed in the Seventh Year of the Reign of King George the Fourth, intituled [insert the Title of this Act]; videlicet,

Name of any new or additional officer of the said society or copartnership in whose name the same shall sue and be sued; videlicet,

A.B. in the room of C.D. deceased [or removed, as the case may be].

Names of any and every person who may have ceased to be a member of such society or copartnership; videlicet [set forth every name].

Names of any and every person who may have become a new member of such society or copartnership [set forth every name].

Names of any additional towns or places where bills or notes are to be issued, and where the same are to be made payable.

A.B. of , manager [or other officer] of the above-named society or copartnership, maketh oath and saith, that the above doth contain the name and place of abode of any person who hath become or been appointed an officer of the above society or copartnership, in whose name the same may sue and be sued, and also the name and place of abode of any and every person who hath ceased to be a member of the said society or copartnership, and of any and every person who hath become a member of the said copartnership, since the registry of the said society or copartnership on the day of last, as the same respectively appear on the books of the said society or copartnership, and to the best of the information, knowledge, and belief of this deponent.

Sworn before me, the day of , at in the county of .

C.D. Justice of the Peace in and for the said County.

7 & 8 GEORGE 4, 1826-7.

CHAPTER XX.

THE FRAUDULENT BANKRUPTS (SCOTLAND) ACT, 1827 (*Short Titles Act*, 1896).

AN ACT to regulate the Prosecution of fraudulent Bankrupts in Scotland. [28th May 1827.]

[*Preamble.*]

1. PERSONS ACCUSED OF FRAUDULENT BANKRUPTCY IN SCOTLAND MAY BE PROSECUTED IN COURT OF JUSTICIARY.—It shall and may be lawful to prosecute all persons accused of fraudulent bankruptcy in Scotland, before the High Court or any circuit court of Justiciary, by indictment or criminal letters, and according to the same form and course of proceeding as is used in regard to other offences prosecuted before the said courts; and the judges of the said High Court and circuit courts are hereby authorized and empowered to try all cases of fraudulent bankruptcy, and to inflict such punishment on persons convicted thereof as it is now competent for the lords of session to award against persons convicted of the said crime.

2. TRUSTEES OR CREDITORS MAY PROSECUTE.—Provided always, that it shall and may be lawful for the trustee appointed for the management of the sequestrated estate of any bankrupt in Scotland, or any creditor whose claim has been received and has been duly ranked upon any such sequestrated estate in the sederunt book kept by the trustee, with the concourse of his Majesty's advocate for Scotland, to prosecute any such offence before the High Court or any circuit court of Justiciary, without prejudice always to the title of the public prosecutor to insist in all such prosecutions.

CHAPTER LIII.

THE EXCISE MANAGEMENT ACT, 1827 (*Short Titles Act*, 1896).

AN ACT to consolidate and amend the Laws relating to the Collection and Management of the Revenue of Excise throughout Great Britain and Ireland. [2d July 1827.]

[*Preamble.*]

[*Ss.* **1, 2** *rep.* 53 *&* 54 *Vict. c.* 21, *s.* 40.]

3. THIS ACT TO APPLY TO ALL FUTURE EXCISE ACTS.— . . . this Act, and the several provisions thereof respectively, shall be deemed and taken to apply to all Acts of Parliament relating to the revenue of excise which shall hereafter be made . . . . .

S. 3 *in part rep.* 53 *&* 54 *Vict. c.* 21, *s.* 40.

[*Ss.* **4–7** *rep.* 53 *&* 54 *Vict. c.* 21, *s.* 40.]

8. NO MEMBER OF THE HOUSE OF COMMONS TO BE A COMMISSIONER OR OFFICER O EXCISE.—No person being a member of the Commons House of Parliament shall, during the time of his being such member of Parliament, be capable of being a commissioner of excise, or of being an officer of excise, or person employed in the charging, collecting, or managing of any part of the revenue of excise, or in comptrolling or auditing the accounts thereof, nor shall be capable of taking, holding, or executing, or being in any manner concerned in executing, either by himself or deputy, or by any other person or persons in trust for him or for his use and benefit, any such office or employment; and if any person shall, during the time of his being a member of the Commons House of Parliament, at any time take, hold, or execute, or be in any manner concerned in executing, either by himself or deputy, or by any other person or persons in trust for him or for his use and benefit, any such office or employment as aforesaid, such person shall be and is hereby declared to be incapable of sitting, voting, or acting in any manner as a member of the Commons House of Parliament in such Parliament.

[*S.* **9** *rep.* 31 *&* 32 *Vict. c.* 73; *ss.* **10–17** *rep.* 53 *&* 54 *Vict. c.* 21, *s.* 40.]

18. *In what manner the entry of Premises, &c. subject to the survey of the Excise shall be made.—All and every person or persons required to make entry of any building, place, vessel, or utensil, under this Act, or any other Act or Acts of Parliament relating to the revenue of excise, shall deliver such entry, with his or their signature thereto, to the officer of excise in whose survey such building, place, vessel, or utensil shall be intended to be used; and such officer shall copy such entry into the book kept and known by the name of the general entry book, for the division or ride in which such building, place, vessel, or utensil shall be intended to be used; and the supervisor of the district shall examine and compare the copy so made in such book as aforesaid with the original entry; and such officer, upon his being removed from such division or ride, shall deliver over to the officer succeeding him in such station such book and all such original entries.* [*Rep.* 4 *&* 5 *Will.* 4, *c.* 51, *s.* 4.]

19. What shall be sufficient Proof of such entry.—Where, upon the trial of any indictment, information, action, suit, or prosecution, or upon any other legal or judicial proceeding whatsoever, any such original entry shall be tendered or offered in evidence, it shall be lawful to prove by any credible witness the signature or signatures to such entry to be the handwriting of the person or persons by whom or in whose name or names such entry was made; and in any such case it shall not be necessary to prove such entry by the testimony of the officer who received, or of the person who may have attested, such signature or signatures, or the receipt of such entry; and if upon any trial as aforesaid, or upon any other legal or judicial proceeding, any question shall be made or shall arise, whether any building or place, or any vessel or utensil, of which entry is required to be made under this Act, or any other Act or Acts of Parliament relating to the revenue of excise, was entered by the person or persons by whom the same shall have been used, it shall be deemed and taken to be sufficient proof of such entry, if upon the production of any credible witness of the entry book of the division or ride in which such building, place, vessel, or utensil shall have been used such building, place, vessel, or utensil shall be found or shall appear in the copy, or what shall purport to be the copy, in such book, of any entry thereof made by such person or persons as aforesaid; and if, upon the production of such book, no such building, place, vessel, or utensil shall be found, or shall so appear therein, or if found shall so appear to have been entered for another or different purpose than the purpose for which the same shall be charged or alleged to have been used by such person or persons, every such building, place, vessel, or utensil shall be deemed and taken to be and[1] unentered to all intents and purposes whatsoever, unless by other evidence the contrary be made appear; any law, custom, or usage to the contrary thereof notwithstanding: Provided always, that where in any indictment or information it shall be averred that any person or persons was or were a trader or traders under any law or laws of excise, it shall not be necessary to prove the same by the production or proof of any entry made by or in the name of such person or persons.

[1] *So in Parliament Roll.*

20. No Entry shall be legal unless made in the name of the real Owner, who must be of full age; but the ostensible Owner shall be liable to Duties, &c.—All Stock, &c. on the Premises shall be liable to Duties, &c.—No entry of any building, place, vessel, or utensil, made by any person or persons under any Act or Acts of Parliament relating to the revenue of excise, shall be or be deemed or taken to be a legal entry thereof, unless the same shall have been made by and be in the name or names of a person or persons who shall at the time of making such entry have attained the age of twenty-one years, and who shall be the true and real owner or owners of the trade or business therein or thereby carried on, or in respect of which such entry of such building, place, vessel, or utensil shall have been made: Provided always, that the person or persons who shall act as the visible owner or owners of any trade or business in respect of which any such entry shall have been made, or by whom the same respectively shall be occupied or used, or who shall have the principal management thereof, shall in all respects, and notwithstanding the minority of such visible owner or owners, be subject and liable to all duties, penalties, and forfeitures imposed by this Act, or any other Act or Acts of Parliament relating to the revenue of excise, or any part thereof, to which the real owner or owners of such building, place, vessel, or utensil, or

of such trade or business therein or thereby carried on, would have been liable; and all stock in such trade or business, and all materials, vessels, and utensils which shall then and there be found in or upon such building or place, to whomsoever the same shall then and there belong, shall be subject to and be charged with all such duties, penalties, and forfeitures.

21. Entered Premises, Vessels, &c. to be distinguished by Letters or Numbers, and Fixed Pipes to be painted, under Penalty of L.100.—Every person making entry of any building, place, vessel, or utensil, under any Act or Acts of Parliament relating to the revenue of excise, shall in every such entry distinguish and describe every such building, place, vessel, or utensil by a particular letter or number, and shall, to the satisfaction of the supervisor or surveyor of the district or division, paint such respective letter or number in a large and distinct character upon some convenient and conspicuous part of the outside of the walls or doors of every such building and place, and upon some convenient and conspicuous part of the outside of every such vessel and utensil, and shall continue the same so painted, and from time to time and when occasion shall require, or when requested by the supervisor or surveyor of excise of the district or division, shall renew the same, so long as the entry thereof shall remain uncancelled, so that such letter or number so painted may be easily and distinctly observed and known by the officers of excise; and wherever any such person shall use or employ, in any entered building or place, any fixed pipe, every such person, when required by the supervisor or surveyor of excise, by a written notice, shall paint and continue painted every such pipe, throughout its whole length and over its whole exterior surface, with a distinct oil colour or oil colours, to the satisfaction of the supervisor or surveyor of excise of the district or division; and every such person, after such notice, shall also deliver, in addition to the entry required to be made by such person of any such building, place, vessel, or utensil, and as part thereof, a drawing or drawings, or description, distinctly showing or exhibiting and explaining the course, direction, construction, and use of every such pipe respectively, and of every branch thereof, and of every cock therein, together with every place, vessel, and utensil respectively, from and to or with which the same shall lead or communicate: Provided always, that all pipes or parts of pipes used for the same purpose only shall be painted of the same colour; and if any such person shall use any building, place, vessel, or utensil, by him or her entered, which shall not be so distinguished and described as aforesaid, or which shall not have such letter or number so painted and continued thereon as aforesaid, or shall use any fixed pipe in any building or place so entered which shall not be so painted, and so shown or exhibited and explained in any drawing or drawings, or description, or different from or disagreeing with any drawing or description by him or her delivered thereof, every such person using such building, place, vessel, utensil, or pipe as aforesaid shall for every such offence forfeit and lose, over and above all other penalties, the sum of one hundred pounds.

22. Officer may enter any Building or other place used for carrying on any Trade subject to Survey (if by night in the presence of a Constable) for the purpose of inspecting the same, or taking any Account, and charging the Duty of Excise—Duties to be charged, and Returns made to Commissioners—Return to be a Charge of Duty.—It shall be lawful for any officer of excise and his assistants at any time, either by night or day, (but if between the hours of eleven at night and five in the morning, then upon request, and in the presence of a constable or other lawful peace officer, except in such cases as are otherwise specially provided for by any other Act or Acts of Parliament relating to the revenue of excise,) to enter into and remain so long as such officer may think fit, for the purposes herein-after mentioned, in any building or place belonging to or used by any person or persons for the purpose of carrying on any trade or business under or subject to any law or laws of excise, or belonging to or used by any person or persons making or required to make any entry of such building or place under any such law or laws; and it shall be lawful for such officer of excise and his assistants to inspect any such building or place, and to take such account as such officer shall deem necessary, according to the several laws, provisions, and regulations relating thereto, of all matters and things, and of all works, vessels, utensils, goods, and materials, belonging or in anywise appertaining to such trade or business; and it shall be lawful for such officer, and he is hereby authorized and required, to charge any duty or duties imposed by any Act or Acts of Parliament relating to the revenue of

excise which shall be then chargeable upon the person or persons carrying on such trade or business, and of such account and charge of duty to make a return or report in writing to the commissioners of excise, and to the commissioner or commissioners of excise in Scotland or Ireland, or to such person as the commissioners of excise, or the commissioner or commissioners of excise in Scotland and Ireland respectively, may direct; such officer, in all cases where the minutes of the entries made by him in taking such account shall not appear on any such specimen left as herein-after mentioned, giving (if demand be made thereof in writing at the time of taking such account) a true copy of such charge, in writing under his hand, to the person or persons carrying on such trade or business; and every such return and report of such officer as aforesaid shall be and shall be taken to be a charge of such duty or duties upon such person or persons.

23. Specimen Books may be left by the Officers on the Premises of Traders for recording Minutes of Entries, Accounts, &c. which shall not be removed or destroyed, under penalty of £200.—The supervisor or surveyor of excise in whose district or division any person or persons shall be who shall carry on any trade or business under or subject to any law or laws of excise, or the officer of excise under whose survey such person or persons shall be, may leave and deposit, in some conspicuous and open part of some building or place entered by such person or persons for such trade or business a certain book or paper called a specimen, for recording therein minutes of the entries made by the officers respectively who survey the premises of such person or persons, or the trade or business of such person or persons, in the books of such officers, of the state of the manufactory, and of the accounts and particulars of the survey thereof at any time taken by such officers respectively, and the names and minutes of survey and observations of any other officer who may visit or inspect such entered premises; and every officer of excise shall at all times have free access to such book or paper, with liberty and power to remove or take away the same, leaving a new book or paper for the like purpose as aforesaid in lieu thereof; and if any person, not being an officer of excise, shall remove or take away, or shall conceal or withhold, any such book or paper, or shall damage or destroy the same, or alter, deface, or obliterate any entry therein, or shall make any entry therein, every such person so offending shall for every such offence forfeit and lose the sum of two hundred pounds.

[*S.* **24** *rep.* 53 *&* 54 *Vict. c.* 21, *s.* 40; *s.* **25** *rep.* 4 *&* 5 *Will.* 4, *c.* 51, *s.* 10; *ss.* **26, 27** *rep.* 53 *&* 54 *Vict. c.* 21, *s.* 40; *s.* **28** *rep.* 4 *&* 5 *Vict. c.* 20, *s.* 23.]

29. Officers authorized to administer Oaths.—In all cases where any oath is or shall by this Act, or any other Act or Acts of Parliament relating to the revenue of excise, be required and directed to be made or taken by any person or persons whomsoever, it shall be lawful for the commissioners or any commissioner of excise, or the justices or any justice of the peace, or officers or any officer, or other persons or person, before whom such oath is required to be made or taken, and they and he respectively are and is hereby authorized, to administer and receive such oath accordingly.

[*S.* **30** *rep.* 54 *&* 55 *Vict. c.* 67 (*S.L.R.*).]

31. Penalties on Perjury and Subornation of Perjury.—If any person who shall make or take any such oath shall wilfully and knowingly swear falsely to any matter or thing therein, every such person, being duly convicted thereof, shall incur and suffer the pains and penalties to which persons are or shall be liable for wilful and corrupt perjury; and if any person shall corruptly procure or suborn any other person to swear falsely to any matter or thing in any such oath, every person duly convicted of such procuring or suborning shall, for every such offence, incur and suffer such penalties, forfeitures, pains, and disabilities respectively as persons are or shall be liable to on being convicted of subornation of perjury.

32. Goods, &c. fraudulently removed or deposited to evade the Duty shall be forfeited—Penalty for removing, &c. Goods, &c. to evade Duty, treble the Value, or L.100.—In case any goods or commodities for or in respect whereof any duty of excise is or shall be imposed, or any materials, utensils, or vessels proper or intended to be made use of for or in the making of such goods or commodities, shall be removed, or shall be deposited or concealed in any place, with any intent to defraud his Majesty of such duty, or any part thereof, all such goods and commodities, and all such materials, utensils, and vessels respectively, shall be forfeited; . . . and every

person who shall remove, deposit, or conceal, or be concerned in removing, depositing, or concealing, any goods or commodities, for or in respect whereof any duty of excise is or shall be imposed, with intent to defraud his Majesty of such duty or any part thereof, shall forfeit and lose treble the value of all such goods and commodities, or the sum of one hundred pounds, at the election of the commissioners of excise or customs, or of the commissioner or commissioners and assistant commissioners of excise or customs in Scotland and Ireland respectively, or the person who shall inform or sue for the same.

S. 32 *in part rep.* 53 *& 54 Vict. c.* 21, *s.* 40.

33. Persons found in unentered Places employed in Manufacture, &c. of Goods liable to Duty shall forfeit L.30; and be imprisoned until payment—Second Offence, penalty L.60.—When any officer of excise shall at any time find in any private or unentered place manufacturing, or in the course of manufacturing, any goods or commodities for or in respect whereof any duty of excise is or shall be imposed, or any materials or preparations for manufacturing any such goods or commodities, and shall at the same time discover in or about such private or unentered place any person knowingly aiding, assisting, or in anywise concerned in the manufacturing of such goods or commodities, every person so discovered shall forfeit and lose the sum of thirty pounds, over and above all other penalties to which the proprietor of the same, or the person in whose custody or possession the same shall be found, or by whom the manufacturing of such goods or commodities may be carrying on, is or may be subject and liable; and it shall be lawful for any officer of excise, and all persons acting in his aid and assistance, to arrest and detain every person so discovered, and to convey him or her before one or more justice or justices of the peace for the county, shire, division, city, town, or place wherein such person shall be so discovered as aforesaid; and it shall be lawful to and for such justice or justices of the peace, on confession of the party, or by proof on the oath of one or more credible witness or witnesses made of such offence, to convict every such person so discovered as aforesaid; and every person so convicted shall, immediately on such conviction, pay the said sum of thirty pounds into the hands of the officer who shall have conveyed such offender before such justice or justices of the peace, to be paid to the commissioners of excise, or the commissioner or commissioners of excise in Scotland or Ireland respectively, or to such person or persons as they may respectively appoint, to be applied in such manner as other excise penalties are by this Act directed to be applied; and on any such offender refusing or neglecting to pay the said sum of thirty pounds, the justice or justices so convicting as aforesaid shall and may, by warrant or warrants under his or their hand or hands, commit the said offender to the house of correction or other prison for the said county, shire, division, city, town, or place respectively, there to remain and be kept to hard labour for the space of three calendar months, to be reckoned from the day of such conviction, and the person so convicted and committed shall not under any pretence, or by reason of any authority or order, other than as herein-after mentioned, be discharged until he or she shall have paid the said sum of thirty pounds, or until the expiration of the said three months; and in case any person so convicted shall be again discovered in or about any private or unentered place or places, manufacturing or in the course of manufacturing any goods or commodities for or in respect whereof any duty of excise is or shall be imposed, or any materials or preparations for manufacturing such goods or commodities, or aiding or assisting or in anywise concerned in manufacturing such goods or commodities, such person so again offending shall upon the like conviction forfeit and pay for such further offence the sum of sixty pounds, and shall be committed to the house of correction or other prison in manner aforesaid, there to remain as aforesaid for and during the term of six months, or until the said sum of sixty pounds shall be paid: . . .

S. 33 *in part rep.* 53 *& 54 Vict. c.* 21, *s.* 40.

34. Upon an Officer making Oath of Suspicion, two Commissioners or one Justice may grant Warrant to enter (if in the night, in the presence of a Constable), and seize forfeited Goods lodged or concealed in any place.—If any officer of excise shall have cause to suspect that any goods or commodities forfeited under or by virtue of this Act, or any other Act or Acts of Parliament relating to the revenue of excise, are deposited or concealed in any place, then and in every such case, if such place shall be within the limits of the chief office of excise in London, upon

oath being made by such officer before the commissioners of excise, or any two or more of them, or if such commissioners shall not be publicly sitting for the despatch of business, or such place or places shall be in any other part of the United Kingdom out of the limits of the said chief office, then upon such oath being made before one or more justice or justices of the peace for the county, shire, division, city, town, or place, where such officer shall suspect such goods or commodities to be deposited or concealed, setting forth the ground of such suspicion, it shall be lawful to and for the said commissioners, or any two or more of them, or the justice or justices of the peace respectively (as the case may be), before whom such oath shall be made, if he or they shall judge it reasonable, by special warrant or warrants under his or their hands respectively, to authorize and empower such officer, by day or by night (but if between the hours of eleven of the clock at night and five in the morning, then in the presence of a constable or other lawful officer of the peace), to enter into every such place where any such goods or commodities shall be suspected to be deposited or concealed, and to seize and carry away the same; and it shall be lawful for any officer to whom any such warrant shall be given or granted, and he is hereby authorized, in case of resistance, to break open any door, and to force and remove any other impediment or obstruction to such entry, search, or seizure, and removal as aforesaid.

35. Justices, Constables, &c. required to assist Revenue Officers.—All justices of the peace, mayors, bailiffs, constables, and all his Majesty's officers, ministers, and subjects, serving under his Majesty, by commission, warrant, or otherwise, shall be aiding and assisting, and they are hereby respectively required to be aiding and assisting, to every officer of excise in the due execution of any act or thing required and enjoined by this Act, or by any other Act or Acts of Parliament relating to the revenue of excise, to be done; and all such persons who shall be so aiding and assisting unto any such officer of excise as aforesaid are and shall be defended and saved harmless by virtue of this Act; and if any such person shall be sued or prosecuted for or on account of any act, matter, or thing by such person done in giving such aid and assistance, every such person shall and may plead the general issue, and give this Act and the special matter in evidence in defence in such behalf.

[*S.* **36** *rep.* 4 *&* 5 *Will.* 4, *c.* 51, *s.* 15.]

37. Constables may continue Assistance into Districts beyond their Jurisdiction.—It shall be lawful for every constable, headborough, or other ministerial officer of the peace, who shall have begun to assist any officer or officers of excise in the execution of his or their duty in any place where such constable, headborough, or ministerial officer of the peace shall have jurisdiction by law, and such constable, headborough, and ministerial officer of the peace is hereby respectively authorized and required, to continue such his assistance in to and in any other place, and shall be deemed a constable, headborough, or ministerial officer of the peace, and have jurisdiction accordingly, in such last-mentioned place, for the purpose of continuing such assistance.

38. Officer of Customs to have powers of Excise Officer as to Seizures, &c. under Excise Acts, and vice versâ.—Every officer of the customs shall have, use, and exercise all such and the like powers and authorities for the arrest and prosecution of any person, or for the search, examination, seizure, detention, removal, and prosecution of any vessel, boat, cart, carriage, or other conveyance, or any horse or cattle, or any foreign or imported goods or commodities whatsoever, or any British spirits forfeited under this Act, or any other Act or Acts of Parliament relating to the revenue of excise, as are, shall be granted, or shall or may be used or exercised in that behalf by any officer of excise; and every officer of excise shall have, use, and exercise all such and the like powers and authorities for the arrest and prosecution of any person, or for the search, examination, seizure, detention, removal, and prosecution of any vessel, boat, cart, carriage, or other conveyance, or any horse or cattle, or any foreign or imported goods or commodities whatsoever, forfeited under any Act or Acts of Parliament relating to the revenue of the customs, as are or shall be granted or shall or may be used or exercised in that behalf by any officer of the customs; anything in this Act or in any other Act or Acts of Parliament to the contrary thereof notwithstanding.

39. Persons obstructing Officers, &c. in making seizures, or attempting rescue, or destroying Packages, &c. to forfeit L.200.—If any person shall molest, obstruct, or hinder any officer of excise, or any person employed in the revenue of excise, or acting

in aid and assistance of such officer or person so employed as aforesaid, in the search, examination, seizure, detention, or removal of any goods or commodities, or any vessel, boat, cart, carriage, or other conveyance, or any horse or cattle, or any other thing whatsoever, forfeited under or by virtue of this Act, or any other Act or Acts of Parliament relating to the revenues of excise or customs, or in the due execution of his office or duty respectively in that behalf, or shall after any such officer or person so employed, or person acting in such aid and assistance as aforesaid, shall have made any such seizure as aforesaid, rescue or cause the same to be rescued, or shall attempt or endeavour so to do, or shall, whilst such officer or person so employed, or person acting in such aid and assistance as aforesaid, is or are searching for, examining, detaining, seizing, or removing any such goods or commodities, vessel, boat, cart, carriage, or other conveyance, or any such horse, cattle, or other thing whatsoever as aforesaid, break or otherwise damage or destroy the same, or any of them or any part thereof, or any cask, vessel, case, or other package whatsoever, containing any such goods or commodities, every person so offending shall for every such offence forfeit and lose the sum of two hundred pounds.

40. Officers, &c. violently resisted in making any Seizure, may oppose force to force; and upon being prosecuted for Wounding, &c. any person opposing may plead the general issue, and be admitted to Bail.—If any person armed with any offensive weapon whatsoever shall with force or violence assault or resist any officer of excise, or any person employed in the revenue of excise, or any person acting in the aid or assistance of such officer or person so employed, who in the execution of his office or duty shall search for, take, or seize, or shall endeavour or offer to search for, take, or seize, any goods or commodities forfeited under or by virtue of this Act, or any other Act or Acts of Parliament relating to the revenue of excise or customs, or who shall search for, take, or seize, or shall endeavour or offer to search for, take, or seize any vessel, boat, cart, carriage, or other conveyance, or any horse, cattle, or other thing used in the removal of any such goods or commodities, or who shall arrest or endeavour or offer to arrest any person carrying, removing, or concealing the same, or employed or concerned therein, and liable to such arrest, then and in every such case it shall be lawful for every such officer and person so employed, and person acting in such aid and assistance as aforesaid, who shall be so assaulted or resisted, to oppose force to force, and by the same means and methods by which he is so assaulted or resisted, or by any other means or methods, to oppose such force and violence, and to execute his office or duty; and if any person so assaulting or resisting such officer as aforesaid, or any person so employed or any person acting in such aid and assistance as aforesaid, shall in so doing be wounded, maimed, or killed, and the said officer or person so employed, or person acting in such aid and assistance as aforesaid, shall be sued or prosecuted for any such wounding, maiming, or killing, it shall be lawful for every such officer or person so employed, or person acting in such aid and assistance, to plead the general issue, and give this Act and the special matter in evidence in his defence; and it shall be lawful for any justice or justices of the peace, or other magistrate or magistrates, before whom any such officer or person so employed, or person acting in such aid and assistance as aforesaid, shall be brought, for or on account of any such wounding, maiming, or killing as aforesaid, and every such justice of the peace and magistrate is hereby directed and required, to admit to bail every such officer, and every person so employed, and every person acting in such aid and assistance as aforesaid; any law, usage, or custom to the contrary thereof in anywise notwithstanding.

41. Persons against whom Indictments or Informations for Resistance shall have been found or filed to give Security to answer them, or in default may be committed.—Whenever any person shall be charged with violently assaulting or resisting as aforesaid any officer of excise or person so employed, or person acting in such aid and assistance as aforesaid, in the due execution of his office or duty, and such charge shall, by affidavit or by certificate of an indictment or information being filed against such person for any such offence, be made to appear to any judge of any of his Majesty's superior courts of record in which such indictment or information shall be found or filed, or into which the same shall have been removed, it shall be lawful for such judge to issue his warrant in writing under his hand and seal, and thereby to cause any person being a defendant in such indictment or information to be apprehended and brought before him or some other judge of such court, or before some one of his Majesty's justices of the peace, in order that such defendant may be bound to the King's Majesty,

with two sufficient persons as sureties, in such sum (the same not being in any case less than one hundred pounds) as in the said warrant shall be expressed, with condition to appear in such court at the time mentioned in such warrant, to answer his said Majesty in the said court concerning any articles on behalf of his Majesty to be there objected against him for any such offence as aforesaid; and in case any such defendant shall neglect or refuse to become bound as aforesaid it shall be lawful for such judge or justice of the peace respectively, and they are hereby respectively directed and required, to commit such defendant to the common gaol of the county, shire, division, city, town, or place where the offence shall have been committed, or where such defendant shall have been apprehended, until such defendant shall become bound as aforesaid, or shall be discharged by order of such court in term time, or by one of the judges of such court in vacation; and the recognizance to be taken thereupon shall be returned and filed in such court, and shall continue in force until such defendant shall have been acquitted of such offence, or, in case of conviction, shall have received judgment for the same, unless sooner ordered by such court to be discharged.

42. IF AN OFFENDER BE IN PRISON FOR WANT OF BAIL, A COPY OF THE INDICTMENT OR INFORMATION MAY BE DELIVERED TO THE GAOLER, WITH A NOTICE OF TRIAL, AND PROCEEDINGS HAD THEREON—DEFENDANT, IF ACQUITTED, TO BE DISCHARGED.—Where any such defendant is or shall be committed to and detained in gaol for want of bail, it shall be lawful for the prosecutor of such indictment or information to cause a copy thereof to be delivered to the gaoler, keeper, or turnkey of the gaol wherein such defendant is or shall be so detained, with a notice thereon endorsed, that unless such defendant shall, within such space of time as shall be for that purpose limited and fixed by the court in which such indictment or information shall be found or filed, or into which the same shall have been removed, cause an appearance and also a plea or demurrer to be entered in the said court to such indictment or information, an appearance and the plea of not guilty will be entered thereto in the name of such defendant; and the prosecutor of such indictment or information shall also be at liberty to endorse on the copy of such indictment or information so delivered a further notice that the issue to be joined on such indictment or information will be tried in the next term, or at the next assizes, or at the next general gaol delivery or Court of Justiciary to be holden in or for the county, shire, division, city, town, or place, in which the offence shall be alleged to have been committed, or the venue laid in such indictment or information; and in case any defendant so committed or detained as aforesaid shall neglect to cause an appearance and also a plea or demurrer to be entered in such court to such indictment or information, within the space of time so to be limited and fixed by such notice as aforesaid, then, upon an affidavit being made and filed in such court, of the delivery of a copy of such indictment or information, with such notice as herein-before first mentioned endorsed thereon as aforesaid, to such gaoler, keeper, or turnkey, as the case may be (which affidavit may be made before any judge or commissioner of the said court authorized to take affidavits in the said court), it shall be lawful for the prosecutor of such indictment or information to cause an appearance and the plea of not guilty to such indictment or information to be entered in the said court for such defendant, and such proceedings shall be had thereupon as if the defendant in such indictment or information had appeared and pleaded not guilty according to the usual course of such court; and if upon the trial of such indictment or information the defendant so committed and detained as aforesaid shall be acquitted of all the offences therein charged upon such defendant, it shall be lawful for the judge before whom such trial shall be had, although he may not be one of the judges of the court in which such indictment or information shall be found or filed, or into which the same shall have been removed, to order that such defendant shall be forthwith discharged out of custody as to such commitment.

43. INDICTMENTS OR INFORMATIONS FOR ASSAULTING OFFICERS MAY BE TRIED IN ANY COUNTY, AND OFFENDERS CONVICTED THEREOF SENTENCED TO IMPRISONMENT WITH HARD LABOUR FOR THREE YEARS IN ADDITION TO OR IN LIEU OF OTHER SENTENCE.—And for the better and more impartial trial of any indictment or information which shall be found, commenced, or prosecuted for any such violent assault or resistance as aforesaid, be it enacted, that every such offence shall and may be inquired of, examined, tried, and determined in any county in England, if such offence shall have been committed in England, or in any of the islands thereof, or in any county in Scotland, if the same shall have been committed in Scotland or in any of the islands thereof, or in any county in

Ireland, if the same shall have been committed in Ireland or in any of the islands thereof, in such manner and form as if the same offence had been committed in such county respectively; and that whenever any person shall be convicted of any such violent assault or resistance as aforesaid it shall be lawful for the court before which any such offender shall be convicted, or which by law is authorized to pass sentence upon any such offender, to award and order (if such court shall think fit) sentence of imprisonment, with hard labour, for any term not exceeding the term of three years, either in addition to or in lieu of any other punishment or penalty which may by law be inflicted or imposed upon any such offender; and every such offender shall thereupon suffer such sentence in such place, and for such term as aforesaid, as such court shall think fit to direct.

[*Ss.* **44–64** *rep.* 53 *&* 54 *Vict. c.* 21, *s.* 40.]

65. Prosecutions before Justices of the Peace—No Information exhibited before Justices of the County shall be objectionable because there are distinct Commissions of the Peace within whose Jurisdiction the Offence was committed.—For the recovery of any penalty imposed by this Act, or any other Act or Acts of Parliament relating to the revenue of excise, and incurred for or by reason of any offence committed against this Act, or the said other Acts or any of them, or for the condemnation of any goods, commodities, or chattels, seized as forfeited under or by virtue of this Act, or the said other Acts or any of them, . . . the information thereupon may be exhibited before any one or more of his Majesty's justices of the peace for the county, shire, division, city, town, or place wherein the offence shall have been committed, or the person or persons committing the same shall be found, or where the goods, commodities, or chattels shall have been seized as aforesaid; and such information shall and may be heard, adjudged, and determined by any two or more of his Majesty's justices of the peace for the said county, shire, division, city, town, or place; . . . and any two or more of such justices of the peace shall and they are hereby authorized and required, upon any such information having been so exhibited as aforesaid, and upon the appearance and pleading of the person or persons against whom such information shall have been exhibited, or who shall claim any goods, commodities, or chattels in such information alleged to have been forfeited, or, in default of such appearance and pleading, upon proof of the service of such summons of such person or persons, to proceed to the examination of the fact or facts in such information alleged, and to give judgment as well for any such penalty or penalties which upon the due examination of one or more credible witness or witnesses upon oath, or upon the voluntary confession of the party accused, shall be found to have been incurred, as for the condemnation of any goods, commodities, or chattels seized as aforesaid, which upon such examination or confession shall be found to be forfeited, or as the case may require; and such . . . justices shall and they are hereby authorized and required thereupon to award and grant a warrant or warrants under their hands for the due execution of and carrying into effect, as herein-after mentioned, such judgment: Provided always, that where any such information as aforesaid shall be exhibited before any justice or justices of any county or shire in England, Scotland, or Ireland respectively, in which there are several and distinct commissions of the peace, no information thereupon exhibited before any such justice or justices, nor any judgment thereupon given by such justices, nor any warrant or warrants thereupon granted for the due execution thereof, shall be subject or liable to any objection whatsoever by reason of any offence alleged in such information having been committed, or the person or persons committing the same having been found, or the goods, commodities, or chattels having been seized as aforesaid, in any division, city, town, or place of such county or shire having local jurisdiction, whether such city, town, or place be or be not a county in or of itself; anything in this Act, or any other Act or Acts of Parliament, to the contrary thereof in anywise notwithstanding.

S. 65 *in part rep.* 54 *&* 55 *Vict. c.* 67 (*S.L.R.*).

[*S.* **66,** *as to notice of information and service of summons to parties to appear and plead to information, rep.* 4 *&* 5 *Will.* 4, *c.* 51, *s.* 18.]

67. Two or more Justices to meet every three calendar months or oftener, to adjudge Excise Cases—Provisions in case of Death or Absence of any Justice during Proceedings—Powers respecting Summary Proceedings given to Justices by any Act shall be exerciseable in Excise Prosecutions.—The justices of the peace, or

any two or more of them, in the several counties, shires, divisions, cities, towns, and places throughout the United Kingdom, shall meet once in every three calendar months in their respective jurisdictions, or oftener if there shall be need or occasion so to do, to receive, hear, adjudge, and determine all matters and things brought before them relating to the revenue of excise, and all informations exhibited or to be exhibited within such jurisdiction, for or in respect of any penalty incurred, or for the condemnation of any goods, commodities, or chattels seized as forfeited, under or by virtue of this Act or any other Act or Acts of Parliament relating to the revenue of excise: Provided always, that if it shall happen that any justice or justices of the peace before whom any such information shall have been exhibited as aforesaid, or before whom any proceedings shall have been had upon any such information, shall die, or be absent at any time after such information shall have been so exhibited, and before the person or persons against whom such information shall have been exhibited shall appear or plead to such information, or before any judgment shall be thereupon given, or before any judgment thereupon given shall be duly executed, so that the further attendance of any such justice or justices thereupon cannot be procured, it shall be lawful for any other justice or justices of the peace within the same jurisdiction to act therein, for and in lieu of the justice or justices of the peace so dying or absent, in all respects relating to such information, and the due completion of the proceedings thereupon, in the same manner as if such information had been at first exhibited before such other justice or justices respectively; and that all powers and authorities, rules, and regulations given and granted by any Act or Acts of Parliament relating to justices of the peace, or to constables or other officers acting under their authority, respecting summary proceedings, shall be enforced, and shall be applied to and executed (excepting wherein altered or otherwise specially provided for by, or which shall be repugnant to or inconsistent with, this Act), for the conviction of any person or persons prosecuted by order of the commissioners of excise, or the commissioner or commissioners of excise in Scotland and Ireland respectively, for any penalty incurred by such person or persons under or by virtue of this Act, or any other Act or Acts of Parliament relating to the revenue of excise, and for the levy of any such penalty, or for the imprisonment of any such offender or offenders, in the same manner as if such powers and authorities, rules, and regulations, had been and were repeated and contained in the body of this Act.

68. No Officer of Excise to act as a Justice in Excise cases, nor any Excise Trader in any case relating to his Trade.—It shall not be lawful for any officer of excise or person employed in the collection or management of the revenue of excise, to act as a justice of the peace in any part of the United Kingdom in the execution of any of the powers, authorities, clauses, matters, or things contained in this Act, or in any other Act or Acts of Parliament relating to the revenue of excise; and it shall not be lawful for any trader subject to the excise laws to act as a justice of the peace as aforesaid in any case which relates to the particular trade or business of such trader, or in any case in which he shall be in anywise, as such trader, concerned or interested; and if any such officer or person employed as aforesaid, or any such trader as aforesaid, shall presume to act as a justice of the peace, contrary to the true intent and meaning of this Act, all proceedings in that behalf shall be and the same are hereby declared to be utterly null and void to all intents and purposes.

69. Penalties of treble value to be either treble the value of the best Goods of the like kind, or L.100 at the election of the Commissioners of Excise or Prosecutor.—Where by any Act or Acts of Parliament relating to the revenue of excise or customs a penalty of treble the value of goods or commodities is imposed for or in respect of any offence committed by any person or persons against such Acts or any of them, every person so offending shall thereupon severally forfeit and lose for every such offence, either treble the value of the goods or commodities, to be estimated and taken according to and at the rate and price for which the best goods or commodities of the like sort or kind and denomination for which the duty or duties thereon have been paid were sold for in London, Edinburgh, or Dublin respectively (as the penalty may have been incurred in England, Scotland, or Ireland respectively), at the time of the commission of such offence, or the sum of one hundred pounds in lieu and instead of such treble value, at the election of the commissioners of excise or customs, or the commissioner or commissioners of excise or customs in Scotland and Ireland respectively, or the person who shall inform or sue for the same.

70. Persons incurring Excise Penalties jointly may be prosecuted jointly or severally.—Where by this Act, or any other Act or Acts of Parliament relating to the revenue of excise, a penalty is imposed upon every person committing the offence by which such penalty is incurred, and such offence shall have been or shall be committed by several persons jointly, such several persons shall jointly and severally incur every such penalty, and it shall be lawful to proceed against such persons jointly or severally for the recovery thereof, as the commissioners of excise, or the commissioner or commissioners of excise in Scotland and Ireland respectively, may deem expedient; anything in this Act, or in any other Act or Acts of Parliament, to the contrary thereof notwithstanding.

71. Averment in Customs or Excise Informations that the Commissioners had ordered Prosecution, &c. shall be deemed sufficient proof of such Order, &c.—Where in any information for the recovery of any penalty, or for the condemnation of any goods, commodities, or chattels seized as forfeited under this Act, or any other Act or Acts of Parliament relating to the revenue of excise or customs, any allegation or averment shall be made that such information was exhibited, or that the commissioners of excise or customs, or the commissioner or commissioners of excise or customs in Scotland and Ireland respectively, had ordered such information to be exhibited, or that the commissioners of excise or customs, or the commissioner or commissioners of excise or customs in Scotland and Ireland respectively, or the informant or person suing by such information, had made their or his election, as in such information shall be alleged or averred, such allegation and averment shall be and the same respectively shall be deemed and taken to be sufficient proof of such facts so alleged or averred respectively, without any other or further evidence thereof.

[*S.* **72** *rep.* 53 *&* 54 *Vict. c.* 21, *s.* 40.]

73. Justices to proceed to hearing and Judgment on the merits without regard to defects in form.—It shall be lawful for the justices of the peace, and they are hereby authorized and required, upon the appearance of any person or persons summoned upon any information, or in default of the appearance of such person or persons, and upon proof of the service as before mentioned of such summons as aforesaid, to proceed to the examination of the fact or facts alleged in such information, and of the witness or witnesses on either side upon oath, touching the penalty or penalties alleged in such information to have been incurred, or the forfeiture of any goods, commodities, or chattels therein alleged to have been seized as forfeited, and thereupon to give judgment accordingly, notwithstanding any defect or defects of form which may appear in such information or in any proceedings thereupon or relating thereto.

74. Power of Justices to summon Witnesses—Penalty for refusing to appear, take Oath, or give Evidence, L.50.—It shall be lawful for the justice or justices of the peace, before whom any such information as aforesaid, or any matter or thing under this Act or any other Act or Acts of Parliament relating to the revenue of excise, shall be judicially brought, and they are hereby authorized and required, to summon any and every person (other than the person or persons against whom such information is exhibited), in whatever part of the United Kingdom any such person so summoned shall then reside or be, to appear before the said justices, who are to hear, adjudge, and determine such information, matter, or thing, at a certain time and place to be specified and set forth in such summons, to give evidence upon oath of the truth of any facts alleged in such information, or touching or relating thereto, or to such matter or thing as aforesaid; and every person other than as aforesaid being so summoned, and having the reasonable expenses for such attendance tendered, who shall neglect or refuse to appear according to the exigency of such summons, or who, having so appeared, shall refuse to take oath, or, if a Quaker, to affirm, or shall refuse to give evidence, or to answer, according to the best of his or her knowledge and belief, any legal question when thereunto required, shall for every such default or offence forfeit and lose the sum of fifty pounds.

[*S.* **75** *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).]

76. Proof of Payment of Duties of Excise or Customs, or that Goods seized under Excise or Customs Acts are not of the sort or kind alleged, shall lie upon the Proprietor or Person claiming.—If upon any information for the recovery of

any penalty or penalties incurred, or for the condemnation of any goods, commodities, or chattels seized as forfeited under or by virtue of this Act, or any other Act or Acts of Parliament relating to the revenue of excise or customs, or in any action brought by the proprietor or claimer of such goods, commodities, or chattels, against any officer of excise, or any person employed in the revenue of excise, or any person acting in the aid and assistance of any such officer or person so employed as aforesaid, for any act, matter, or thing done in pursuance of any such Act or Acts of Parliament, any question shall be made or shall arise whether any duty of excise or customs has been paid upon or in respect of the goods or commodities in such information mentioned, or whether such goods, commodities, or chattels are respectively of such sort or kind as in such information is in that behalf alleged, the proof of the payment of such duty, or that the said goods, commodities, and chattels respectively are not of such a sort or kind as aforesaid, shall lie upon the proprietor or claimer thereof.

77. Judgment to be entered by default against a Prisoner who shall not appear and plead before Commissioners or Justices, after delivery of Notice and Summons to Gaoler.—Where any person or persons shall be in prison on any account whatsoever, and any information shall be exhibited before any justice or justices of the peace, against such person or persons, for the recovery of any penalty or penalties incurred by such person or persons, or for the condemnation of any goods, commodities, or chattels seized as forfeited under or by virtue of this Act, or any other Act or Acts of Parliament relating to the revenue of excise, claimed by such person or persons, and such person or persons, on a copy of such information being delivered to the gaoler, keeper, or turnkey of the prison wherein such person or persons shall be confined or imprisoned, with a summons to appear and plead to and to attend the hearing of such information, at a time and place in such summons mentioned, shall not appear and plead in person, or by some person duly authorized in that behalf, to such information, at the time and place so mentioned, such proceedings shall be thereupon respectively had as are herein-before provided and directed in cases of default of appearance to any such information: any law, custom, or usage to the contrary thereof notwithstanding.

78. Power of Justices to mitigate Penalty to one fourth part thereof.—It shall be lawful for the justices of the peace, when they shall see cause, except in cases where there is or shall be any provision that no mitigation shall be made by the justices of the peace, and they are hereby authorized and empowered, to mitigate any penalty incurred for any offence committed against this Act, or any other Act or Acts of Parliament relating to the revenue of excise, for which any information shall have been exhibited before such justice or justices, as the said justices in their discretion shall think fit, so as such mitigation shall not reduce such penalty to less than one fourth part thereof; and every such mitigation, and payment thereupon accordingly made, shall be a sufficient discharge of every such penalty to the person or persons convicted of such offence . . . . . .

S. 78 *in part rep.* 53 *&* 54 *Vict. c.* 21, *s.* 40.

79. No Certiorari, &c. to be issued at the Suit of a Defendant to supersede or affect any Proceedings before Commissioners of Excise or Justices—Proviso as to Certiorari at the Suit of the Crown out of the Exchequer.—No writ of certiorari or other writ or process shall be issued at the suit of any defendant out of any of his Majesty's courts of record in England, Scotland, or Ireland, nor shall any bill of suspension, advocation, or reduction be passed, nor shall any letter or letters of suspension, advocation, or reduction, or any other proceeding, be issued out of the Court of Session or Court of Justiciary in Scotland, to supersede, sist, stay, remove, or in anywise affect any information or judicial proceeding before the commissioners of excise, or before any justice or justices of the peace in the United Kingdom, in pursuance of this Act, or any other Act or Acts of Parliament relating to the revenue of excise, or any judgment thereupon; and every such information shall be tried and determined, and every such judicial proceeding shall be had and completed, and every such judgment executed, any such writ of certiorari or other writ or process, or bill or letter or letters of suspension, advocation, or reduction, or other proceeding notwithstanding: Provided always, that nothing herein contained shall extend, or be deemed or construed to extend, to any writ of certiorari sued or issued in such cases, in behalf of his Majesty, out of his Majesty's courts of Exchequer in England, Scotland, or Ireland respectively.

[*S.* **80** *rep.* 53 *&* 54 *Vict. c.* 21, *s.* 40; *s.* **81** *rep.* 4 *&* 5 *Vict. c.* 20, *s.* 25.]

82. Appeal from Justices to Quarter Sessions—Defects of Form cured upon Appeal.— . . . In case any officer who shall exhibit any information, or any person or persons against whom any information shall have been exhibited, or who shall appear and claim any goods, commodities, or chattels alleged to be forfeited in any information exhibited before any justice or justices of the peace as aforesaid, shall feel aggrieved by the judgment given thereon by such justices, it shall be lawful for such officer, or such person or persons, upon giving such notice as hereinafter mentioned, to appeal therefrom to the justices assembled at the next general quarter sessions of the peace (or if there be not one week between the time of giving such notice and the next general quarter sessions, then to the general quarter sessions of the peace next after the expiration of one week), to be holden in and for the county, shire, division, city, town, or place in which such judgment so appealed against shall have been given; and it shall be lawful for the justices of the peace at such general quarter sessions, upon being served with such notice, and they are hereby respectively authorized and required, at such general quarter sessions, to hear, adjudge, and finally determine such appeal; and if upon any such appeal to the justices of the peace at quarter sessions, any defect in form shall be found in the information, or in any part of the proceedings thereon or relating thereto, or in the record thereof, every such defect of form shall thereupon be rectified and amended by order of such justices or the major part of them assembled at such general quarter sessions, before whom respectively such appeal shall be brought; anything in this Act, or any other Act or Acts of Parliament, to the contrary notwithstanding.

S. 82 *in part rep.* 53 *&* 54 *Vict. c.* 21, *s.* 40.

83. No Appeal allowed unless a Notice of Appeal given—No Appeal to be heard unless Notice of Trial given—Deposit of amount of Penalty, or of Goods condemned, shall be made in certain Cases.—Provided always, that no such appeal as aforesaid shall be allowed, unless the party or parties appellant, shall, at and immediately upon the giving of the judgment appealed against, give notice in writing of such appeal to . . . the justices of the peace from whose judgment such appeal shall be made, and also to the adverse party or parties on such appeal, and shall lodge such notice . . . with the clerk of the peace for the justices of the peace at such general quarter sessions as aforesaid, by and before whom such appeal is to be finally adjudged and determined; and no such appeal as aforesaid shall be heard unless the party or parties appellant on such appeal shall, within one week at least before such appeal is to be finally adjudged and determined, give notice in writing to the adverse party or parties on such appeal of the time and place where such appeal is to be heard: Provided always, that where the judgment appealed against shall be a conviction in any penalty or penalties of the party or parties appellant, such party or parties shall also, within three days next after the giving of the judgment appealed against, place and deposit in the hands of the commissioners of excise, or of the collector of excise in whose collection, or of the supervisor of excise in whose district, the information shall have been exhibited, the amount of the penalty or penalties in which such party or parties shall have been convicted, or of the sum or sums of money to which such penalty or penalties shall have been mitigated; or where the judgment appealed against shall be either for or against the condemnation of any goods, commodities, or chattels seized as forfeited, such goods, commodities, and chattels shall be left and deposited with the commissioners of excise, or the collector of excise in whose collection, or the supervisor of excise in whose district, the information shall have been exhibited, until the final adjudication and determination of such appeal.

S. 83 *in part rep.* 54 *&* 55 *Vict. c.* 67 (*S.L.R.*).

84. Judgment of Quarter Sessions on Appeal—Power of mitigation—Case may be stated for Court of Exchequer.—Upon every such appeal it shall be lawful for the justices of the peace at the general quarter sessions before whom any such appeal shall be brought, . . . to reverse or confirm in the whole or in part the judgment appealed against, or to give such new or different judgment as they in their discretion shall in that behalf think fit; and such justices of the peace at general quarter sessions shall in any such new or different judgment have the same power of mitigation as is herein-before by this Act given to justices of the peace in judgments given by them: Provided always, that it shall be lawful for such justices of the peace at such general

quarter sessions as aforesaid, at their discretion, to state the facts of any case on which such appeal shall be made specially for the opinion and direction of the Court of Exchequer in England, Scotland, or Ireland, as the same shall have arisen therein respectively.

S. 84 *in part rep.* 53 & 54 *Vict. c.* 21, *s.* 40.

85. Enforcement of Judgment on Appeal.—Where the judgment of the justices of the peace appealed against shall be affirmed by the court of appeal, such judgment shall be enforced and executed by the justices of the peace in like manner as if there had been no such appeal; and where the judgment appealed against shall be reversed, and another or different judgment given by the court of appeal than the judgment given by the justices of the peace appealed against, such new judgment shall be enforced and executed, as herein-after mentioned, by the justices of the peace at the general quarter sessions, by whom such new judgment shall have been given.

86. Justices shall grant Warrants for the sale of Goods condemned, or for levy of Penalties, on Judgments to be enforced by them.—Where any judgment is[1] by this Act required to be enforced and executed by the justices of the peace (the same not having been appealed against, or if appealed against, having been affirmed by the court of appeal,) shall be for the condemnation of any goods, commodities, or chattels seized as forfeited, it shall be lawful for such justices of the peace, and they are hereby authorized and required, to apply the money which shall have been so deposited as aforesaid in satisfaction of such judgment, and if the same shall not be sufficient to satisfy such judgment, to award and grant a warrant or warrants under their hands, to any officer or officers of excise, for the sale of such goods, commodities, or chattels which they respectively shall have condemned; and where the judgment to be so enforced and executed shall be for any penalty or penalties, or for any sum or sums of money to which such penalty or penalties shall have been mitigated, it shall be lawful for such justices of the peace, and they are hereby authorized and required, to award and grant a warrant or warrants under their hands to any officer or officers of excise, authorizing such officer or officers to levy the penalty or penalties, or sum or sums of money, so adjudged, or so much thereof as shall not have been so satisfied as aforesaid, upon the goods and chattels of such person or persons so convicted, and either to detain and keep such goods and chattels in the house or place where the same shall have been found, or to remove the same to the next office of excise.

[1] *So in Parliament Roll.*

87. Quarter Sessions shall grant Warrants for the sale of condemned Goods, or for levy of Penalties on Judgments to be enforced by them.—Where any judgment is[2] by this Act required to be enforced and executed by the justices of the peace at the general quarter sessions, on appeal, shall be for the condemnation of any goods, commodities, or chattels seized as forfeited, it shall be lawful for such justices of the peace, and they are hereby authorized and required, to grant a warrant or warrants, under their hands, or under the hands of any two of such justices, to any officer or officers of excise, for the sale of the goods, commodities, or chattels which they respectively shall have condemned; and where the judgment to be so enforced and executed shall be for any penalty or penalties, or for any sum or sums of money to which such penalty or penalties shall have been mitigated, it shall be lawful for such justices of the peace at the general quarter sessions, and they are hereby authorized and required, to apply the money which shall have been so deposited as aforesaid in satisfaction of such judgment; and if the same shall not be sufficient to satisfy such judgment, to award and grant a warrant or warrants under their hands, or under the hands of any two of such justices respectively, to any officer or officers of excise, authorizing such officer or officers to levy the penalty or penalties, or sum or sums of money, so adjudged, or so much thereof as shall not have been so satisfied as aforesaid, upon the goods and chattels of such person or persons so convicted, and either to detain and keep such goods and chattels in the house or place where the same shall have been found, or to remove the same to the next office of excise.

[2] *So in Parliament Roll.*

88. In Levy Warrants any time not less than four nor exceeding eight days may be appointed for the sale of Distress.—It shall be lawful in any such levy warrant to order and direct therein that the goods and chattels upon which such levy

shall be made shall be sold and disposed of so soon as conveniently may be after a certain time to be limited in such warrant for the sale thereof (so as such time be not less than four days nor more than eight days), unless the penalty and penalties or sum and sums of money for which such levy shall be made shall, within the time limited for payment thereof as aforesaid, be paid and satisfied.

89. Penalty and Expenses to be deducted from the Proceeds of Sale, and the Overplus returned—A Copy of the Warrant may be taken—Force of the Warrant.—It shall be lawful for the officer of excise making such levy, and he is hereby empowered and required, to deduct the penalty and penalties or sum and sums of money for which such levy shall be made, and all reasonable charges and expenses attending such levy, out of the money arising by such sale as aforesaid, and to return the overplus (if any) to the proprietor or proprietors of the goods and chattels upon which such levy shall have been made, or to the person or persons legally entitled thereto; and such officer shall, if required, show such warrant to the person or persons upon whose goods and chattels such levy shall be made, and shall suffer such person or persons to take a copy thereof; and every such warrant shall be of the same force and effect in all respects as a writ of fieri facias issued out of his Majesty's Court of Exchequer in England for the recovery of any debt due to his Majesty.

90. Where sufficient Distress cannot be found, a Warrant may issue for the arrest of the person.—For want of sufficient goods and chattels whereon such penalty and penalties, or sum and sums of money, with the charges and expenses aforesaid, may be levied, and on a return in writing made upon any levy warrant by any officer to whom such warrant may have been directed, to the persons by whom such warrant shall have been granted, or to the commissioners of excise, or any one or more of the justices of the peace within whose jurisdiction respectively any such warrant shall have been issued, that such officer cannot find, within the jurisdiction in which such warrant shall have been issued, any goods and chattels of the person or persons against whom such warrant shall have been granted, whereon the same can be levied, or on a return as aforesaid that part of such penalty and penalties, or sum and sums of money, charges, and expenses, has been levied or paid, and that such officer cannot find any further goods and chattels of the person or persons against whom such warrant shall have been granted (beyond the goods and chattels already seized and sold as aforesaid), within such jurisdiction as aforesaid, whereon the residue of such penalty and penalties, or sum and sums of money, charges, and expenses, can be levied, it shall be lawful for the persons by whom such warrant shall have been granted, or for any two or more of the commissioners of excise, or any one or more of the justices of the peace, to whom respectively such return shall have been made as aforesaid, and they are hereby respectively authorized and required, thereupon to grant a warrant or warrants in manner aforesaid, to any officer or officers of excise, to arrest, and convey such person or persons to the common gaol or house of correction within his or their jurisdiction respectively, and there to deliver the person or persons so arrested, with a duplicate of such warrant or warrants, to the gaoler or keeper of such gaol or house of correction, there to remain and be kept by such gaoler or keeper until satisfaction be made of such judgment as aforesaid, or until such person or persons shall be ordered by the commissioners of excise, or the commissioner or commissioners of excise in Scotland and Ireland respectively, to be liberated or discharged; any law, bill of health, custom, or usage in England, Scotland, or Ireland, to the contrary thereof in anywise notwithstanding.

91. A fresh Levy Warrant may be issued when Goods are found after the issue or execution of Arrest Warrant; and on payment, party arrested may be discharged.—Provided always, that where any goods or chattels of and belonging to any person or persons against whom any such warrant for arrest shall have been granted shall be found, at any time or times after the granting or execution of such warrant, it shall be lawful for the person or persons by whom such warrant shall have been granted, or for any two or more of the commissioners of excise, or for any one or more of the justices of the peace in whose jurisdiction respectively any such goods or chattels shall be found, and he and they is and are hereby respectively authorized and required, notwithstanding the granting of such warrant of arrest, to award and grant a fresh warrant or warrants under his or their hand or hands to any officer or officers of excise to levy upon the goods and chattels so found any penalty or penalties, or any sum or sums of money, charges, and expenses, for which

the former levy warrant may have been granted, or to levy so much thereof as may not have been before paid; and upon payment and satisfaction thereof the warrant for arrest shall be discharged, and the person or persons arrested shall be forthwith liberated out of custody.

92. Warrants to be executed in any part of the United Kingdom, upon endorsement by a Justice of the Peace for the place in which the same shall be executed —No Action shall be brought against any Justice for endorsing Warrant; but Actions may be brought against the Commissioners or Justices granting the original Warrant.—Where any such warrant as aforesaid shall be granted, and cannot be executed by reason that sufficient distress or that the person or persons against whom the same shall have been granted cannot be found within the limits of the jurisdiction of the commissioners or justices in which such warrant shall have been issued, it shall be lawful for any one or more of the justices of the peace for any other county, shire, division, city, town, or place within the United Kingdom, and such justice or justices is and are hereby respectively authorised and required, to endorse his or their name or names respectively upon such warrant; and such warrant and endorsement thereon shall be a sufficient authority to the officer or officers of excise to whom such warrant shall be directed, or having the execution thereof, to execute the same in such other county, shire, division, city, town, or place, and to levy as aforesaid the penalty and penalties, or sum and sums of money, for which such warrant shall have been granted, or so much thereof as may not have been before paid, upon the goods and chattels of and belonging to the person or persons against whom such warrant shall have been granted which shall be found within the jurisdiction of the justice or justices endorsing such warrant, or to arrest and convey such person or persons to the common gaol or house of correction of the county, shire, division, city, town, or place where such warrant shall have been executed, there to remain until delivered, as by this Act is before directed: Provided always, that no action of trespass or false imprisonment, nor any information or indictment, or other prosecution, shall be brought, commenced, or prosecuted against any justice or justices of the peace respectively for or by reason of his or their having granted subsidiary warrants, or endorsed any warrant, in pursuance and under the directions of this Act, in execution of any judgment, but it shall be lawful for any person or persons to bring or prosecute his, her, or their action or suit against the commissioners or justices respectively by whom the original warrant in execution of such judgment shall have been granted, in the same manner as such person or persons might have done if this Act had not been made.

[*Ss.* **93–106** *rep.* 53 *&* 54 *Vict. c.* 21, *s.* 40.]

107. Officers of Customs to give notice of the seizure of Exciseable Goods—Such Goods, if removed without Permit, where Permit is required, shall be forfeited.—All officers of the customs who shall make any seizure under or by virtue of this Act, or any other Act or Acts of Parliament relating to the revenue of excise, of any exciseable goods or commodities, shall forthwith give notice of such seizure at the next office of excise, or to the supervisor or other officer of excise of the district where such seizure shall have been made; and such supervisor or other officer of excise shall, on such notice, take a particular account of the species and quantities of all such goods and commodities so seized respectively; and the same or any part thereof shall not afterwards be removed without a permit (where a permit is, for the removal of goods or commodities of a similar quantity, sort, or kind, required under any Act or Acts of Parliament relating to the revenue of excise), signed by the proper officer of excise of the place or district from whence the same shall be intended to be removed, on pain of forfeiture thereof for such removal.

108. Seizures of Exciseable Commodities by Police or Peace Officers to be lodged in the chief or other Office of Excise.—All goods or commodities whatsoever which are or shall be prohibited, or which are or shall be subject to any duty or duties of excise, and which shall be stopped, detained, or taken by any police officer or peace officer, or any other person, under or by virtue of any Act or Acts of Parliament, or under or by virtue of any other authority whatsoever, shall be conveyed, and the same is and are hereby directed and required to be forthwith conveyed, to and deposited and lodged in the chief office of excise, if the same shall have been stopped, detained, or taken within the limits of the chief office, or in the nearest office of excise if in any

other part of the United Kingdom, in order that all such goods or commodities as aforesaid, and the person or persons in whose custody or possession the same were found, may be prosecuted or proceeded against as the nature of the case shall or may require, anything in any Act or Acts of Parliament to the contrary thereof notwithstanding.

109. EXCISEABLE GOODS STOPPED ON SUSPICION OF HAVING BEEN FELONIOUSLY STOLEN OR RECEIVED, TO BE LODGED IN THE POLICE OFFICE, AND NOTICE THEREOF GIVEN TO THE PROPER OFFICER OF EXCISE, WHO SHALL BE PERMITTED TO EXAMINE THEM.—Provided always, that in case any such goods or commodities as aforesaid shall be stopped, detained, or taken by any police officer or peace officer, or any other person, on suspicion of the same having been feloniously stolen or taken or received, it shall be lawful to and for such police officer or peace officer, or other person so stopping, detaining, or taking the same, to convey to, deposit, and lodge forthwith all such goods and commodities as aforesaid in the office of the police office nearest to the place where the same shall have been so stopped, detained, or taken as aforesaid, or any other convenient place directed by the justice or justices of the peace before whom the same shall be carried, there to remain in order to be produced at the trial of any person or persons who shall be charged with feloniously stealing, taking, or receiving the same; and every such police officer or peace officer, or other person, who shall so stop, detain, or take any such goods or commodities as aforesaid, after he shall have stopped, detained, or taken the same as aforesaid, shall forthwith give notice thereof in writing at the chief office of excise, if the same shall have been stopped, detained, or taken within the limits thereof; and if the same shall have been stopped, detained, or taken in any other part of the United Kingdom, then at the office of excise nearest to the place where the same shall have been so stopped, detained, or taken; and any officer of excise shall thereupon be permitted to examine and take account of the same.

110. AFTER THE TRIAL FOR FELONIOUSLY STEALING, &C., THE GOODS TO BE IMMEDIATELY DEPOSITED IN THE EXCISE OFFICE, TO BE DEALT WITH ACCORDING TO LAW.—When and so soon as any person or persons charged with feloniously stealing, taking, or receiving any such goods or commodities as aforesaid shall have been tried for such offence, all such goods and commodities respectively as aforesaid shall immediately be conveyed to and deposited in the chief office of excise, or other office of excise as aforesaid, in order that prosecution or proceedings may be had for the condemnation of such goods or commodities for such cause or causes of forfeiture as the same shall be liable to, or that the same may be restored upon payment of such duty or duties as may be due in respect thereof, or upon such conditions as the commissioners of excise, or the commissioner or commissioners of excise in Scotland and Ireland respectively, shall think fit, to such person or persons as shall be proved to be the legal proprietor or proprietors thereof respectively, or for the purpose of being otherwise dealt with according to law.

111. GOODS NOT DEPOSITED SHALL BE FORFEITED—PERSONS MAKING DEFAULT TO FORFEIT L.20.—In case any such goods or commodities which shall be so stopped, detained, or taken shall not be conveyed to and deposited in the chief office of excise or other office of excise, in the manner by this Act directed, all such goods or commodities which shall not be so conveyed to and actually deposited in the chief office of excise or other office of excise as aforesaid shall be forfeited; and the person or persons in whose care, custody, or possession the same shall be, and who shall neglect or refuse so to convey to and deposit the same as aforesaid, shall forfeit and lose the sum of twenty pounds.

[*Ss.* **112–126** *rep.* 53 *&* 54 *Vict. c.* 21, *s.* 40.]

[*S.* **127** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

128. ALL EXCISE DUTIES AND PENALTIES SHALL, AFTER THE COMMENCEMENT OF THIS ACT, BE RECOVERED AS DIRECTED BY THIS ACT.— . . . : Provided always, that . . . all penalties and forfeitures which shall be incurred under or by virtue of this Act, or any other Act or Acts of Parliament relating to the revenue of excise, after the commencement of this Act, shall be recovered and applied in such manner and by such form or forms and ways of proceeding as are by this Act directed and provided; anything in any Act or Acts of Parliament to the contrary thereof notwithstanding.

S. 128 *in part rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).

[*Ss.* **129–130** (*last*) *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

CHAPTER LXV.

THE ADMIRALTY ACT, 1827 (*Short Titles Act*, 1896).

AN ACT to explain and remove Doubts touching the Admiralty. [2d July 1827.]

Whereas doubts may arise whether the powers and privileges given to and the duties imposed upon the commissioners for executing the office of lord high admiral by various Acts of Parliament do extend and apply to the lord high admiral: And whereas it is expedient that such doubts should be removed:

1. POWERS AND PRIVILEGES GIVEN BY ANY ACT TO THE COMMISSIONERS OF THE ADMIRALTY TO EXTEND TO THE LORD HIGH ADMIRAL.—All powers, privileges, authorities, jurisdictions, and exemptions given to and all duties and obligations imposed upon the commissioners for executing the office of lord high admiral for the time being, or any two or more of them, or given to or imposed upon any other person or body corporate in relation to the said commissioners or any of them, by any Act of Parliament now in force, do extend and apply, and shall be deemed, taken, and adjudged to extend and apply, to the lord high admiral for the time being, and to such person or body corporate in relation to the lord high admiral for the time being, in like manner and to all intents and purposes as if the lord high admiral had been expressly named in such Acts of Parliament.

2. POWERS, &C. GIVEN TO THE FIRST COMMISSIONER TO EXTEND TO THE LORD HIGH ADMIRAL.—All powers, privileges, authorities, jurisdictions, and exemptions given to and duties imposed upon the first commissioner of the Admiralty by any Act of Parliament now in force shall extend and apply, and be deemed and taken to extend and apply, in like manner, to the lord high admiral for the time being.

3. THE SIGNATURE OF TWO OF THE COUNCIL OF THE LORD HIGH ADMIRAL TO HAVE THE SAME EFFECT AS THE SIGNATURES OF TWO COMMISSIONERS.—In all cases in which the signatures of any two or more of the commissioners for executing the office of lord high admiral would be sufficient, if the said office were executed by commissioners, to give effect to any commission, warrant, order, or other document whatsoever, the signature of any two or more of the council of the lord high admiral, affixed by his authority for that purpose, shall be taken and adjudged to have the like force and efficacy.

4. APPOINTMENT OF MEMBERS OF THE COUNCIL.—The members of the council of the lord high admiral shall be appointed by his Majesty, and be removable at his Majesty's pleasure: . . . . . .

S. 4 *in part rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*)

5. MEMBERS OF THE COUNCIL NOT DEEMED TO HOLD A NEW OFFICE WITHIN 6 ANN. C. 41.—The members of the council of the lord high admiral for the time being shall not be deemed and taken to have or hold any new offices or places of profit within the meaning of an Act passed in the sixth year of the reign of her Majesty Queen Anne, intituled "An Act for the security of her Majesty's person and government, and of the "succession to the crown of Great Britain in the Protestant line."

CHAPTER LXXV.

THE LAND TAX COMMISSIONERS ACT, 1827 (*Short Titles Act*, 1896).

AN ACT to appoint Commissioners for carrying into Execution several Acts granting an Aid to His Majesty by a Land Tax to be raised in Great Britain, and continuing to His Majesty certain Duties on . . . Offices and Pensions in England. [23d June 1827.]

Title in part rep. 51 *&* 52 *Vict. c.* 57 (*S.L.R.*).

[*Preamble recites* 38 *Geo.* 3, *c.* 5, 38 *Geo.* 3, *c.* 60, *and* 7 *&* 8 *Geo.* 4, *c.* 7.]

[*S.* **1** *applicable to England exclusively.*]

2. Commissioners appointed for Scotland.—All persons who shall act as justices of the peace for any county, shire, or stewartry in Scotland, and also the several and respective persons herein-after specially mentioned, named, and designated, all such justices of the peace and other persons being respectively duly qualified to act as commissioners of the land tax within their respective counties, shires, or stewartries, shall be and they are hereby declared to be commissioners for putting into execution such of the powers, provisions, clauses, matters, and things of the said first herein-before recited Act, made in the thirty-eighth year of the reign of his said late Majesty, as are continued for ever by the said second herein-before recited Act of the same year, in and for the several shires, stewartries, and places respectively, in Scotland, herein-after mentioned; (that is to say,)

[*Here follow the names of the commissioners for* Scotland.]

. . . . . .

S. **3** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

4. Proviso as to Sheriffs Depute or Substitute in Scotland.—Provided also, that any sheriff depute or sheriff substitute for the time being of any county in Scotland, who is or shall be named or appointed to be a commissioner for the execution of the said Acts, shall be capable of acting as a commissioner for such county; anything in this Act, or in any of the said recited Acts, to the contrary in anywise notwithstanding.

[*S.* **5** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

6. No person who has been Inspector or Surveyor of Assessed Taxes to act as Commissioner under this Act.—Provided also, that no person who shall have held the office of inspector or surveyor of assessed taxes shall be capable of acting as such commissioner, although such person may be named in this Act as such commissioner.

[*S.* **7** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

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9 GEORGE 4, 1828.

CHAPTER XXV.

The Revenue Solicitors Act, 1828 (*Short Titles Act*, 1896).

An Act to authorize the Appointment of Persons to act as Solicitors on behalf of His Majesty in any Court or Jurisdiction in Revenue Matters.

[19th June 1828.]

[*Preamble.*]

1. Persons appointed to be Solicitors or Attornies on behalf of his Majesty under the orders of the Treasury or other Revenue Departments, &c. may act as such in all Courts or Jurisdictions in the United Kingdom.—Whenever any person has been, or is, or shall be appointed to be solicitor or attorney on behalf of his Majesty, under the orders and directions of the commissioners of the Treasury, customs, excise, or stamps, or under the orders and directions of any commissioners or other persons or person having the management of any other branch of his Majesty's revenue, for the time being, it is and shall and may be lawful for such person to act and practise as such solicitor or attorney under such orders and directions in all and every court and courts, jurisdiction and jurisdictions, place and places, in any and every part of the United Kingdom; anything in any Act of Parliament, or in any order or rule of any court of justice, or any law, usage, or custom, in force in any part of the United Kingdom, relating to solicitors or attornies, or to the admission or practice of such solicitors or attornies, to the contrary in anywise notwithstanding.

[*S.* **2** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

CHAPTER XXIX.

THE CIRCUIT COURTS (SCOTLAND) ACT, 1828 (*Short Titles Act*, 1896).

AN ACT to authorize additional Circuit Courts of Justiciary to be held, and to facilitate Criminal Trials, in Scotland. [19th June 1828.]

[*Preamble.*]

1. HIGH COURT OF JUSTICIARY AT EDINBURGH YEARLY TO FIX A DAY FOR HOLDING A CIRCUIT COURT OF JUSTICIARY FOR TRYING CRIMINAL CAUSES AT GLASGOW, AND NAME TWO JUDGES TO DISCHARGE THE DUTIES THEREOF—POWERS VESTED IN THE JUDGES SO NAMED.—It shall and may be lawful for the High Court of Justiciary at Edinburgh, and the said Court is hereby authorized and required, on or before the twentieth day of November in every year, to fix by act of adjournal a day for holding a circuit court of Justiciary at Glasgow, for trying criminal causes, during the recess of the Court of Session in the end of December and beginning of January yearly, and to name two of the judges of the said high court to discharge the duty of the said circuit court; and such circuit court shall be held at Glasgow accordingly, and shall be continued from day to day, until the whole criminal business to be brought before the court at that time is concluded, and no longer: Provided always, that the judges so named, and each of them, shall possess, as they are hereby vested with, all powers which belong to and can be exercised by any lord commissioner of justiciary in any other circuit court.

2. ANY JUDGES OF THE COURT OF JUSTICIARY MAY OFFICIATE.—It shall and may be lawful for any judge or judges of the Court of Justiciary to discharge the duty of the circuit court hereby appointed, or of any other circuit court, notwithstanding such judge or judges may not have been specially named for that duty.

3. HIS MAJESTY MAY DIRECT ADDITIONAL CIRCUIT COURTS TO BE HELD IN OTHER TOWNS.—It shall and may be lawful for his Majesty, by an order to be made in his privy council, from time to time, as occasion may require, to direct that additional circuit courts shall be held in any towns at which circuit courts are in use to be held, and at such time or times of the year as to his Majesty may seem meet; and upon such order being communicated to the High Court of Justiciary the said court shall and they are hereby required and empowered, by act of adjournal, to give all necessary directions for carrying such order into effect.

4. SUCH ADDITIONAL COURTS AT GLASGOW OR ELSEWHERE MAY BE DISPENSED WITH IF FOUND UNNECESSARY.—Provided always, that if, in consequence of the diminution of criminal offences, such circuit courts, or any of them, shall be deemed unnecessary, it shall in like manner be lawful for his Majesty, by an order to be made in his privy council, from time to time to dispense with the holding of the additional circuit court at Glasgow hereby directed to be held, and with any other circuit courts which his Majesty, by order made in his privy council, may have directed to be held in any place in Scotland.

5. CRIMES MAY BE TRIED BEFORE ANY CIRCUIT COURT IN THE SAME MANNER AS BEFORE THE COURT OF JUSTICIARY IN EDINBURGH.— . . . Hereafter all crimes may be tried before any circuit court of Justiciary by indictment, in the same manner as before the High Court of Justiciary at Edinburgh.

S. 5 in part rep. 36 & 37 *Vict. c.* 91 (*S.L.R.*).

6. INSTEAD OF A SHORT COPY OF CITATION BEING LEFT WITH THE PARTY ACCUSED, A NOTICE IN THE FORM OF SCHEDULE A. SHALL BE SERVED.—Instead of a short copy of citation being left with a person accused, every copy of a criminal libel served on such person shall have marked upon it a notice, to be subscribed by the officer of the law who serves the same, and by one person who shall witness such service, in the form contained in the schedule annexed to this Act, and therein designated by the letter A., which form of notice shall be observed in the service of all criminal libels in Scotland; and it shall not be necessary for such officer to subscribe any other part of such copy of a libel.

7. EXECUTION OF CITATION OF CRIMINAL LIBELS.—It shall be no objection to such service, or to the citation of any juror or witness, that the officer who discharged the duty was not at the time possessed of the warrant of citation; and the execution of

citation of all criminal libels . . . it shall not be necessary to produce, unless sentence of fugitation, or of forfeiture of a bond of caution granted for appearance to stand trial, shall be moved for, but without prejudice to such execution being exhibited to disprove objections to service when stated to the court; and it shall be no objection to the admissibility of the officer or witness who served such libel to give evidence respecting such service that their names are not included in the list of witnesses served on the accused.

S. 7 *in part rep.* 53 & 54 *Vict. c.* 33 (*S.L.R.*)

[*Ss.* **8, 9** *rep.* 53 & 54 *Vict. c.* 33 (*S.L.R.*).]

10. Jurors or persons appearing without Citation not to be objected to.—[*Recital*] It shall not be competent in any criminal cause or prosecution whatsoever for any prosecutor or person accused to state any objection to any juror or to any witness, on the ground of such juror or witness appearing without citation, or without having been duly cited to attend.

[*S.* **11** *rep.* 53 & 54 *Vict. c.* 33 (*S.L.R.*).]

12. If person pleads not guilty, the Libel need not be read over.—When a person accused, on being brought to the bar, shall say that he means to plead not guilty, and does not desire that the criminal libel exhibited against him should be read over, it shall not be necessary to read over such libel before proceeding to the trial of such person.

13. Affirmation of Quakers to be admitted—False Affirmation, Perjury.—Every Quaker who shall be required to give evidence in any criminal cause or prosecution shall, instead of taking the oath in the usual form, be permitted to make his or her solemn affirmation or declaration, in the words following; videlicet, "I do solemnly, "sincerely, and truly declare and affirm;" which affirmation or declaration shall be of the same force and effect, in all courts of justice, as if such Quaker had taken an oath in the usual form; and if any Quaker making such affirmation or declaration shall be convicted of having affirmed and declared any matter or thing in such a way as if the same had been sworn to in the usual form it would have amounted to perjury, every such offender shall be subject to the same punishment to which persons convicted of perjury are liable; and if any Quaker shall refuse to make such affirmation and declaration, or having made the same shall refuse to give evidence, or shall wilfully conceal the truth, or be guilty of wilful prevarication, such Quaker shall be liable to the same pains of law which apply to such offences respectively when an oath is administered.

14. When person indicted pleads guilty, Jury to be dispensed with, and Sentence pronounced.—When . . . a person indicted before any criminal court shall plead guilty to the crime or crimes of which such person is accused, it shall no longer be necessary to name a jury for the purpose of deciding on the guilt of such person, but the court before which such accused person shall be tried shall, upon such confession being made, have power forthwith to pronounce the sentence of the law in the same manner as if a verdict of guilty had been returned: Provided always, that such plea of guilty shall be made in open court, and shall then and there be subscribed by the pannel, or by the pannel's procurator, and shall be authenticated by the signature of the judge.

S. 14 *in part rep.* 53 & 54 *Vict. c.* 33 (*S.L.R.*).

15. Verdict of Jury how to be received.—Verdicts in writing shall be discontinued in all cases when the verdict is returned before the court adjourns; and when on a trial before the High Court of Justiciary at Edinburgh a jury shall retire to consider of their verdict, it shall be sufficient that one judge shall remain in court to receive the verdict, which judge shall have power to see the verdict duly recorded when delivered, and to dismiss the jury, and to assoilzie the pannel, if not convicted by such verdict; but if the pannel shall be found guilty, or the terms of the verdict be such as may appear to require consideration by the court, such judge shall continue the diet, and commit the pannel to prison.

16. Jurisdiction of the Courts of Justiciary and Admiralty to extend to all Crimes triable in the Admiralty Court.—The cumulative jurisdiction of the High Court of Justiciary, with that of the High Court of Admiralty, shall extend to all crimes and offences whatsoever now competent to be tried in the said Court of Admiralty.

17. Admiralty and Sheriffs Courts to proceed to Trial by Jury without reducing the Evidence to writing—Judges to preserve and authenticate their Notes.—It shall and may be lawful for the High Court of Admiralty and for the court of the sheriff respectively to proceed in, try, and determine all causes and prosecutions for crimes before them, where the trial is by jury, by verdict of such jury, upon examining and hearing the evidence of the witness or witnesses in any such cause or prosecution vivâ voce, without reducing into writing the testimony of any such witness or witnesses, in the same manner and according to the same rules as are observed in trials before the Court of Justiciary; and it is hereby provided, that the judge trying such causes or prosecutions shall preserve and duly authenticate the notes of the evidence taken by him in such trial, and shall exhibit the same, or a certified copy thereof, in case the same should be called for by the Court of Justiciary.

18. Certain proceedings in Trials in Sheriffs Courts without Jury not to be taken down in writing.—In trials of crimes before the sheriff or other inferior court in Scotland, without a jury, no part of the proceedings, which is not in use to be taken down in writing in trials by jury, shall be so taken down, excepting only the depositions of witnesses.

19. Summary Form of proceeding in certain Cases—Record to be preserved in Form in Schedule C.—In the prosecution of criminal offences before sheriffs of counties in Scotland, where the prosecutor shall, in his libel, conclude for a fine not exceeding ten pounds, together with expences, or for imprisonment in gaol or in bridewell, not exceeding sixty days, accompanied, when necessary, with caution for good behaviour or to keep the peace for a period not exceeding six months, and under a penalty not exceeding twenty pounds, it shall and may be lawful to proceed to try such offences in the easiest and most expeditious manner, without the pleadings or evidence being reduced into writing: Provided always, that a record shall be preserved of the charge and of the judgment, including the names of the witnesses examined on oath, unless where the accused pleads guilty, which shall be made to appear; and the said record shall also set forth, if the prosecutor or accused party desire it, any offer of proof made by either of those parties, and refused to be admitted; and likewise, if so desired, any objections to the admissibility of evidence sustained or repelled by the court; which record shall be in the form contained in the schedule annexed to this Act, and there designated by the letter C.

20. Sheriff to preserve Notes of Evidence.—The sheriff so trying any such offence shall preserve a note of the evidence taken by him on such trial and shall exhibit the same, or a certified copy thereof, in case the same should be called for by the Court of Justiciary.

21. Warrants of Imprisonment for Penalties, &c. to specify the period of Discharge, though Penalty, &c. be not paid.—All warrants of imprisonment for payment of penalty, or for finding of caution, shall specify a period at the expiry of which the person sentenced shall be discharged, notwithstanding such penalty shall not have been paid, or caution found.

22. Sheriff Depute may be addressed as Sheriff.— . . . The sheriff depute may be addressed by the title of sheriff, without the term depute being added.

S. 22 *in part rep.* 53 & 54 *Vict. c.* 33 (*S.L.R.*).

23. Fees on Criminal Libels.—No fees or expences of any description shall be exigible by the clerks or other officers of a criminal court, from any person on whom a criminal libel shall have been served, unless the same shall form part of the sentence of the court; but the fees exigible from the prosecutor by such clerks and officers shall not be affected by the provisions of this Act: and on trials before the circuit court of Justiciary by indictment, where before the passing of this Act the same must have proceeded on criminal letters, the same fees shall be payable by the prosecutor on such indictment as if criminal letters had been used as heretofore.

24. Before the closing of any Circuit Court, returns to be made to Court by Sheriffs of Persons committed and remaining in Gaol.—Before any circuit court shall be declared ended, the sheriffs of the counties included therein shall respectively lay before the court a return, showing to as late a date as it can be made up the names of all such persons as may stand committed to the several gaols within their respective counties on warrants of detention, until liberated in due course of law, and who have

not been brought to trial before the said court, and are still remaining in gaol; which return shall specify the crime or crimes of which such prisoners are accused, and the date of such warrants of commitment respectively; and the said court is hereby required to call for such returns for their inspection, and to cause the same to be presented in open court, and thereafter to direct the clerk of court to lodge the same in the justiciary office at Edinburgh for preservation.

25. Records of Commitments and Liberations to be kept in Gaols in form in Schedule D., and exhibited to the Sheriff when required.—Records shall be kept in every gaol in Scotland, respecting the commitment and liberation of prisoners committed under criminal warrants, according to the form contained in the schedule annexed to this Act, and therein designated by the letter D., which records the magistrates of burghs and keepers of gaols are hereby ordered and required accurately to keep; and the keepers of gaols in Scotland are hereby ordained and required at all times to exhibit to the sheriff of the county within which such gaols may be respectively situated, without fee or reward, such records, when so required.

26. Provisions of 43 Geo. 3, c. 141, extended to all Inferior Judges in Scotland as to Sentences on Criminal Trials.—The provisions of an Act made in the forty-third year of the reign of his late Majesty King George the Third, intituled "An "Act to render justices of the peace more safe in the execution of their duty," shall extend to all inferior judges and magistrates in Scotland, in regard to any sentence pronounced or proceeding had in any criminal trial.

[*S.* **27** *rep.* 51 *&* 52 *Vict. c.* 57 (*S.L.R.*).]

SCHEDULES to which the Act refers.

A.

Form of Notice.

A.B., take notice, that you will have to compear before the High Court of Justiciary [or other court to be specified], to answer to the criminal libel against you, to which this notice is attached, on the day of , at of the clock.

This notice served on the day of by me

C.D., macer [or other officer of the law].

E.F., witness.

[*Schedule B. rep.* 53 *&* 54 *Vict. c.* 33 (*S.L.R.*).]

C.

1.—Libel.

Unto the Sheriff of the County of the Complaint of the Procurator Fiscal of Court [or other Party with his Concurrence],

Humbly sheweth,

That [J.K.] has been guilty of the crime of theft [or other crime] actor, or art and part, in so far as on the day of , or about that time, he did [here state the particulars of the offence, specifying particularly the place where the crime was committed]. May it therefore please your lordship to grant warrant to apprehend the said , and bring him before you [or to cite him to appear before you] to answer to this libel, and thereafter to [here specify the punishment concluded for], according to justice. A.B.

2.—Deliverance on Libel.

At 18 .

The sheriff, having considered this libel, grants warrant to officers of court to apprehend the above designed [J.K.], and to bring him [or to cite him to appear] to answer the same, and also to cite witnesses for both parties.

[When stolen goods, or the like, are to be searched for, this will be included in the libel and warrant.] C.D.

3.—Procedure.

At 18 , compeared the said J.K., and the libel being read over to him, he answers that

J.K.
C.D.

[If the accused pleads not guilty, or the case be not concluded at the first diet]

The sheriff adjourns the diet to at , and in the meantime grants warrant to incarcerate the said [J.K.] in the tolbooth of , to be detained 'till that time, [or until he finds caution to appear at all future diets of court, under a penalty of .] C.D.

At 18 , compeared the said [J.K.]

The witnesses after named were examined, upon oath, in support of the libel videlicet,

G.H.
L.M.

And the witnesses after named were examined, on oath, in exculpation, videlicet,

N.O.
P.Q.

4.—Sentence.

The sheriff finds and therefore [here add terms of sentence].

C.D.

D.

Gaol.

Name.	Committed, when and by whom.	Age.	Crime.	Committed, 'till liberated in due Course of Law, when and by whom.	Liberated on Bail, when and by whom.	Tried, when and by whom.	Convicted or acquitted.	Sentence.	Liberated or removed after Conviction, when and by whom.	Liberated, without Bail, when and by whom.	Remarks.

CHAPTER XXXVIII.

The Land Tax Commissioners Act, 1828 (*Short Titles Act*, 1896).

An Act for rectifying Mistakes in the names of the Land Tax Commissioners, and for appointing additional Commissioners, and indemnifying such Persons as have acted without due Authority in execution of the Acts therein recited. [27th June 1828.]

[*Preamble recites* 7 *&* 8 *Geo.* 4, *c.* 75.]

[*Ss.* **1–3** *rep.* 61 *&* 62 *Vict. c.* 22 (*S.L.R.*); *s.* **4** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

5. All matters which are directed by the Land Tax Acts to be executed by three or more Commissioners may be executed by two or more of such Commissioners.—[*Recital*] All acts, matters, and things whatsoever, which in and by the Acts relating to the land tax are directed, authorized, or required to be done, executed, or performed by or before three or more commissioners acting in the execution thereof, shall and may be done, executed, or performed by and before any two or more of such commissioners; and all acts, matters, and things so hereafter to be done, executed, and performed by or before two or more of such commissioners, shall be as valid and effectual in all respects, and to all intents and purposes whatsoever, as if the same acts respectively were done, executed, or performed by or before three or more commissioners; any thing in the said Acts or this Act contained to the contrary notwithstanding.

CHAPTER XXXIX.

The Salmon Fisheries (Scotland) Act, 1828 (*Short Titles Act*, 1896).

An Act for the Preservation of the Salmon Fisheries in Scotland.

[15th July 1828.]

[*Preamble.*]

1. No Fish of the Salmon kind to be taken between the 14th Sept. and 1st February.— . . . No salmon, grilse, sea trout, nor other fish of the salmon kind, shall be taken in or from any river, stream, lake, water, or estuary whatsoever, or on any part of the sea coast between the fourteenth day of September and the first day of February in any year, by any person or persons; any law, statute, or practice to the contrary notwithstanding.

S. 1 *in part rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*), *and* 53 *&* 54 *Vict. c.* 33 (*S.L.R.*).

[*S.* **2** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

3. Penalty on persons trespassing with intent to kill Fish.—If any person shall trespass in any ground, inclosed or uninclosed, or in or upon any river, stream, watercourse, or estuary with intent to kill salmon, grilse, sea trout, or other fish of the salmon kind, such person shall forfeit and pay any sum not less than ten shillings and not exceeding five pounds.

[*Ss.* **4–6** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

7. Saturday's Slop to be kept.—And whereas by an Act passed in the Parliament of Scotland in the year one thousand four hundred and seventy-seven, intituled "Anent "cruves," it is inter alia ordained, that they that hes cruves in fresh waters gar keip the lawes anent Satterdaies slop, and suffer them not to stand in forbidden time; and that ilk heck of the said cruves be three inche wide, and quha that beis convict thereof to pay five pund: And whereas it is expedient that the said penalty of five pounds Scots money should be augmented: Be it therefore enacted, that if any owner or occupier of cruves shall offend against the said law, such person shall forfeit and pay a sum not less than five pounds nor exceeding twenty pounds sterling for every such offence.

[*S.* **8** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

9. Recovery and Application of Penalties—Appeal.—Provided always, that each and every penalty provided by this Act shall go to the informer, and may and shall be recoverable with expences, as well before the sheriff as before the justices of the peace of any county as aforesaid wherein the same may be incurred, or where the offender shall reside, at the instance of any person or persons who shall prosecute for the same; and in prosecutions for the different penalties imposed by this Act, or any other Act for the preservation of the salmon fisheries in Scotland, it shall be lawful for the sheriff or justices before whom any complaint for the recovery thereof may be brought to proceed in a summary way, and to grant warrant for bringing the parties complained upon immediately before them, and on proof on oath by one or more credible witnesses, or confession of the offence, or other legal evidence, forthwith to determine and give

judgment in such complaint, without any written pleadings or record of evidence, and to grant warrant for the recovery of all penalties and expences decerned for, failing payment within fourteen days after conviction, by poinding and imprisonment, for a period, at the discretion of the sheriff or justices, not exceeding six months, it being hereby provided that a record shall be preserved of the charge and of the judgment pronounced; and any person or persons who shall think himself, herself, or themselves aggrieved by any judgment of any sheriff or justices, pronounced in any case arising under this Act, or by assessment made under this Act, in Scotland, may appeal to the commissioners of Justiciary at their next circuit court, or, where there are no circuit courts, to the High Court of Justiciary at Edinburgh, in the manner and by and under the rules, limitations, conditions, and restrictions contained in the Act passed in the twentieth year of the reign of King George the Second, for taking away and abolishing the heritable jurisdictions in Scotland; with this variation, that such person or persons shall, in place of finding caution in the terms prescribed by the said Act, be bound to find caution to pay the penalty or penalties, and expences, awarded against him, her, or them by the sentence or sentences appealed from, in the event of the appeal or appeals being dismissed, together with any additional expences that shall be awarded by the circuit court on dismissing the said appeal or appeals; and it shall not be competent to appeal from or bring the judgments of any justices or sheriff acting under this Act under review, by advocation or suspension, or by reduction, or in any other way than as herein provided.

10. Two Proprietors of Fisheries on any River in Scotland may call Meetings of other Proprietors on the same, in order to assess them according to the Rents of their Fisheries for the purposes of this Act—Meetings may appoint Clerks, Water Bailiffs, &c.—Assessments recoverable under 6 Geo. 4, c. 24—Proviso as to Fisheries situate within five miles of the mouths of more than one River.—It shall be lawful, in Scotland, for any two proprietors of salmon fisheries in any river, or any stream, lake, water, or estuary, communicating therewith, from time to time to call meetings of all the other proprietors of salmon fisheries in such river, and the several streams, lakes, waters, and estuaries communicating therewith, or on the sea coast within five miles of the mouth of such river or estuary, by three several advertisements in any newspaper published in the county where such meeting is to be held, or if no newspaper be there published, then in any newspaper published in any adjoining county, and also in one Edinburgh newspaper, fourteen days before such meeting shall be held; at which meetings it shall be lawful for the majority of proprietors in number and value attending, or authorizing their factors or other proprietors by a written mandate to act for them, to assess the whole proprietors of salmon fisheries in such river, stream, lake, water, or estuary, and on the sea coast within five miles of the mouth of such river or estuary, in such sums as they shall think fit, rateably according to the real rents of their fisheries, for the purpose of enforcing this Act, and the other laws regulating salmon fisheries; and it shall be lawful for such meetings to appoint and pay clerks, water bailiffs, and other officers, as they shall see cause; and all such assessments shall be recoverable in the sheriff's court, at the instance of any clerk or other person authorized by any such meeting, in the same manner and under the same provisions and regulations as small debts are now recovered by the Act passed in the sixth year of the reign of his present Majesty, intituled "An Act for the more easy recovery of small "debts in the sheriff courts in Scotland"; and this notwithstanding the amount of such assessment shall exceed eight pounds: Provided always, that if any salmon fishery on the sea coast shall be within five miles of the mouths of more than one river or estuary, the proprietor of such fishery shall be liable in one assessment only for such fishery, and shall be at liberty to make his election of any one such river or estuary in connection with which he shall be assessed.

11. Apprehension of Offenders.—It shall be lawful for any person, without any warrant or other authority than this Act, brevi manu, to seize and detain any person who shall be found committing any offence against this Act, and to carry such person before any justice of the peace or other magistrate, or to deliver such person to a constable, who is hereby required to carry such person before a justice of the peace or magistrate, who shall forthwith examine and discharge, or commit such person until caution de judicio sisti be found, as the case may require.

12. Justices, though interested in Fisheries, may act—Owners not incompetent Witnesses.—All justices of the peace and other magistrates shall and may act in the

execution of this Act, notwithstanding such justice or magistrate shall be interested in any salmon fishery, except in any case where such justice or magistrate, as hereinafter is a party in the prosecution or case to be heard and determined by such justice or magistrate; and every owner or occupier of, or any person otherwise interested in, any salmon fishery, shall and is hereby declared not to be an incompetent witness to prove any offence committed against this Act, by reason of being such owner or occupier or interested.

13. LIMITATION OF ACTIONS.—No prosecution or other proceeding whatever shall be brought or commenced against any person or persons for any offence or offences against this Act, unless the same shall be laid or commenced within six calendar months after any such offence or offences shall have been committed; and provided that where any offender shall be punished by virtue of this Act, he shall not incur the penalty of any other law or statute for the same offence.

14. ACT NOT TO EXTEND TO ENGLAND, IRELAND, WALES, &c.—Nothing in this Act contained shall extend or be construed to extend to England, Ireland, Wales, or Berwick-upon-Tweed, or to the fisheries in the river Tweed, or in any of the streams and waters that run into or communicate therewith, or to the fisheries in the arm of the sea between the county of Cumberland and the counties of Dumfries and Wigton and the stewartry of Kirkcudbright, or the fisheries in the several streams and waters which run into or communicate with the said arm of the sea.

CHAPTER XLIV.

THE EXCISE ACT, 1828 (*Short Titles Act*, 1896).

AN ACT to provide for the Execution, throughout the United Kingdom, of the several Laws of Excise relating to Licenses and Survey on Tea, Coffee, Cocoa, Pepper, Tobacco, Snuff, Foreign and Colonial Spirits and Wine, notwithstanding the Transfer to the Customs of the Import Duties on any of such Commodities. [15th July 1828.]

[*Preamble.*]

1. EXCISE LAWS IN FORCE BEFORE 1825, RELATING TO DEALERS IN AND MANUFACTURERS OF CERTAIN EXCISEABLE ARTICLES, EXCEPT SO FAR AS THEY HAVE BEEN REPEALED, SHALL CONTINUE IN FORCE, NOTWITHSTANDING ANYTHING IN ANY ACTS RELATING TO THE CUSTOMS.—All Acts relating to the revenue of excise in force at and immediately before the year one thousand eight hundred and twenty-five, with respect to dealers in and sellers of coffee, cocoa, pepper, tobacco, snuff, foreign and colonial spirits and wine, and manufacturers of tobacco and snuff respectively, and with respect to the taking and keeping account of and survey of all stocks of such commodities respectively in the possession of such traders respectively, and to the manufacture of tobacco and snuff, and with respect to the granting of permits for the removal of such commodities as aforesaid respectively, have remained and continued, and are and shall be and remain and continue, in full force and virtue, as laws relating to the revenue of excise, (save and except so far as any of such Act or Acts, or any part or parts thereof, may have been repealed or altered by any subsequent Act relating to the excise passed for that purpose), and the said Acts shall and may be executed and carried into effect in all particulars (save and except as to the landing and shipment of the said commodities respectively, and the collection and payment of the duties of customs on the said respective commodities, and the lodging of such commodities in warehouses without payment of duty,) by the said commissioners of excise and their officers; and all and singular the powers and authorities, rules, regulations, provisions, and directions (except as aforesaid), in anywise relating to the licenses to be taken out by the dealers in and sellers of such commodities respectively, and to the survey by the excise officers of such dealers and sellers, and of their respective stocks of such commodities respectively, and to the granting of all permits (except as hereinafter mentioned) for the removal of such commodities respectively, contained in any Act or Acts relating to the said commodities respectively, and the jurisdiction and management thereof by the commissioners and officers of excise, shall and may be possessed, used, executed, exercised and put in force

by the said commissioners of excise and their officers, to all intents and purposes whatsoever (save and except as aforesaid); anything in any Act or Acts relating to the duties or revenue of customs to the contrary in anywise notwithstanding.

2. All Penalties and Forfeitures imposed by any Customs or Excise Acts which may be sued for by order of Commissioners of Excise shall be sued for, recovered, &c. according to 7 and 8 Geo. 4, c. 53.—All penalties and forfeitures imposed by any Act or Acts relating to the revenue of customs or excise respectively, which by law the officers of excise are authorized to prosecute, and which the commissioners of excise shall order to be prosecuted, shall and may be so prosecuted, sued for, recovered, levied, mitigated, and applied, and in and by such ways, means, and methods, and in, under, and before such jurisdiction respectively, as penalties and forfeitures incurred or forfeited by reason of offences committed against any law or laws of excise are or may be sued for, recovered, levied, mitigated, and applied by an Act passed in the last session of Parliament, for consolidating and amending the laws relating to the collection and management of the revenue of excise throughout Great Britain and Ireland; anything in any other Act or Acts to the contrary thereof in anywise notwithstanding.

[*S.* **3** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

4. Excise Laws of Great Britain relating to Tea, Coffee, Cocoa, Pepper, &c. extended to the United Kingdom.—All and every Act and Acts now in force, or hereby declared to be in force as aforesaid in England, relating to the revenue of excise on tea, and relating to coffee, cocoa, pepper, foreign and colonial spirits and wine, shall be established, observed, executed, and put in force in and throughout the United Kingdom of Great Britain and Ireland in the same manner, to all intents and purposes whatsoever, as heretofore in England; anything in any Act or Acts to the contrary thereof in anywise notwithstanding.

[*Ss.* **5, 6** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

CHAPTER XLVII.

The Passage Vessel Licences Act, 1828 (*Short Titles Act*, 1896).

An Act for regulating the Retail of exciseable Articles and Commodities to Passengers on board of Passage Vessels from one part to another of the United Kingdom. [15th July 1828.]

[*Preamble.*]

1. Commander, &c. of Vessels and Packets carrying Passengers from one part of the United Kingdom to another, may be licensed by the Commissioners of Excise to retail Wine, Beer, Tobacco, &c. on board such Vessels—Licences to be transferable; and to be renewed yearly.—It shall be lawful for the commissioners of excise in England, and for the commissioner or commissioners of excise in Scotland and Ireland respectively, at any time to grant a licence to any master or commander of any packet, boat, or other vessel employed for the carriage and conveyance of passengers from one part of the United Kingdom to another or other parts thereof, or to any other person belonging to any such packet, boat, or vessel, who shall be nominated and approved of by the owner or owners, or director or directors thereof, residing in England, Scotland, or Ireland respectively, such nomination and approval being signified by their writing and subscribing a certificate or declaration, to be delivered by them to the commissioners of excise of that part of the United Kingdom in which the owner or owners, director or directors, reside, or to such person as such commissioners in England, or such commissioner or commissioners in Scotland and Ireland respectively, shall respectively appoint for that purpose, to provide for and to supply, retail, and sell, to the passengers on board such vessel, to be consumed by them in and on board thereof during the voyage on which such passengers shall be then carried and conveyed, foreign wine, strong beer, cyder, perry, spirituous liquors, and tobacco; and such licence shall continue in force until the fifth day of July next ensuing the date thereof; and such licence shall be transferable, by an indorsement thereon of such transfer, subscribed by the

person to whom and in whose name the same shall have been granted, his executors or administrators, or by any assignee thereof, his executors or administrators, to any other master or commander or any other person of or belonging to the said vessel, or in case of the loss or breaking up of any such vessel before the expiration of any such licence, to the master, commander, or any other person of or belonging to any other vessel of the same owner or owners, or company or companies, substituted in lieu of the said vessel in respect of which such licence was granted, and nominated and approved of by the owner or owners of such vessels, or the director or directors of such company or companies, such nomination, approval, and transfer being signified by the subscription of such owner or owners as aforesaid, or their executors, administrators, or assigns, or of such director or directors, to such endorsement; and every such licence shall from year to year be renewed before the expiration of the licence granted for the preceding year, and shall fully authorize and empower the person therein named, or his assignee, to supply, retail, and sell foreign wine, beer, cyder, perry, spirituous liquors, and tobacco, or any of them, to be consumed in and on board of such vessel by the passengers thereof, during any voyage on which such passengers shall be carried and conveyed while such licence shall continue in force; anything in any Act or Acts in force immediately before the passing of this Act to the contrary notwithstanding.

2. Duty on Licence, L.1.—At the time of granting such licence as aforesaid the owner or owners, or director or directors of such packet, boat, or other vessel, in respect of which such licence is applied for as aforesaid, shall pay or cause to be paid to the commissioners of excise in England, or commissioner or commissioners of excise in Scotland or Ireland, to whom such application shall be made, according to the residence of such owner or owners, or director or directors as aforesaid, or to the collector of excise or other person appointed as aforesaid to grant the same, a duty of one pound.

3. Penalty for selling Wines, &c. without a Licence, L.10.—If any person shall retail or sell, on board any packet, boat, or other vessel employed for the carriage or conveyance of passengers from one part of the United Kingdom to another part thereof, any foreign wine, strong beer, cyder, perry, spirituous liquors, or tobacco, without having taken out such licence as is by this Act required, every such person shall for every such offence incur and be liable to a penalty of ten pounds.

4. Duties to be under the Excise.—The duties by this Act imposed shall be under the management of the commissioners of excise.

5. Monies arising by Duties to be carried to the Consolidated Fund.—All the monies arising by the duties by this Act imposed (the charges for raising and accounting for the same excepted) shall from time to time be paid and carried to and made part of the consolidated fund of the United Kingdom of Great Britain and Ireland, in like manner with other duties of excise arising from licences.

6. Not to affect any Regulations or Penalties respecting Smuggling.—Provided always, that nothing in this Act contained shall extend or be construed to extend to repeal any regulation, penalty, or forfeiture contained in or imposed by any law or laws in force at the time of passing this Act, for or in respect of any person carrying, removing, hiding, concealing, or landing any spirits, or any other goods or commodities, on which the duties of excise chargeable and payable thereon have not been fully paid, or for or in respect of any vessel used or employed for that purpose; but that all such regulations, penalties, and forfeitures shall remain in full force and virtue, this Act, or any licence granted by authority thereof, in anywise notwithstanding.

[*S.* **7** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

CHAPTER LVIII.

THE LICENSING (SCOTLAND) ACT, 1828 (*Short Titles Act*, 1896).

AN ACT to regulate the granting of Certificates, by Justices of the Peace and Magistrates, authorizing Persons to keep common Inns, Alehouses, and Victualling Houses, in Scotland, in which Ale, Beer, Spirits, Wine, and other Exciseable Liquors, may be sold by Retail under Excise Licences; and for the better Regulation of such Houses; and for the Prevention of such Houses being kept without such Certificate.[1] [15th July 1828.]

[1] *This Act is rep.* 16 *&* 17 *Vict. c.* 67, *s.* 18, *in so far as it is inconsistent with the provisions of that Act.*

[*Preamble.*]

[*S.* 1 *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

2. MEETINGS OF JUSTICES OF COUNTIES, AND MAGISTRATES OF ROYAL BURGHS, FOR GRANTING CERTIFICATES TO PERSONS TO KEEP INNS, &c.—Throughout Scotland there shall be annually held, for the purpose of granting certificates to persons to keep common inns, alehouses, or victualling houses, to sell exciseable liquors by retail, to be drunk or consumed in the premises in which the same is sold, two general meetings of the justices of the peace in every county, so long as not divided into districts in manner herein-after mentioned, and two general meetings of the magistrates of every royal burgh, which meetings shall be called "The general Half-yearly Meetings for granting Publicans "Certificates."

S. 2 *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*), *but revived* 41 *&* 42 *Vict. c.* 79 (*S.L.R.*).

3. *MEETINGS BY MAGISTRATES OF ROYAL BURGHS FOR GRANTING CERTIFICATES TO BE HELD IN APRIL AND OCTOBER YEARLY*—BURGH MAGISTRATES NOT TO GRANT CERTIFICATES FOR HOUSES BEYOND THE ROYALTY OF THE BURGH.—*The magistrates of royal burghs shall meet for granting such certificates, within the royalty of the said burgh respectively as aforesaid, upon the last Tuesday of April and the last Tuesday of October in each year, with power to them to adjourn such meetings from day to day as they shall think fit, during the period of seven lawful days following and next after the day of their first meeting, and no longer:* Provided always, that magistrates of royal burghs shall in no case have power to grant such certificates as aforesaid for inns, alehouses, or victualling houses to be kept beyond the royalty of the burgh; and if any such certificate shall be granted contrary hereto, the same shall be and is hereby declared to be null and void to all intents and purposes.

S. 3 *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*), *but revived in part* 41 *&* 42 *Vict. c.* 79 (*S.L.R.*).

4. *MEETINGS BY JUSTICES FOR COUNTIES TO BE HELD IN MAY AND OCTOBER*—COUNTY JUSTICES NOT TO GRANT CERTIFICATES WITHIN ROYALTIES OF BURGHS, EXCEPT AS AFTER MENTIONED.—*The justices of the peace for the several counties in Scotland shall assemble, for granting such certificates for their several counties respectively, upon the first Tuesday of May and the last Tuesday of October in each year, with power to them to adjourn such meetings from day to day as they shall think fit, during the period of seven lawful days following and next after the day of their first meeting, and no longer:* Provided always, that such justices shall not have power to grant such certificates for the royalty of any royal burgh, except as after mentioned; and if any such certificate shall be granted contrary hereto, the same shall be and is hereby declared to be null and void to all intents and purposes.

S. 4 *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*), *but revived in part* 41 *&* 42 *Vict. c.* 79 (*S.L.R.*).

5. JUSTICES MAY MEET AND DIVIDE COUNTIES INTO DISTRICTS FOR THE PURPOSES OF THIS ACT—NOTICE OF MEETING TO BE GIVEN—JUSTICES MAY MEET AND ALTER ANY DISTRICT ON LIKE NOTICE.—It shall be lawful for the justices of the peace of any county, assembled at a meeting to be held on the same day on which the first Michaelmas head court of the county shall be held after the passing of this Act, to divide the county into districts

for the purposes of this Act, within which such justices shall assemble at a place to be by them appointed, for considering and disposing of applications under this Act, at the times before specified; and notice of the place of meeting so to be appointed, and of the name and residence or office or place of business of a clerk or depute clerk within such district, with whom applications and recommendations may be lodged in terms of this Act (as after mentioned), shall be given by advertisement at the church doors of every parish church within the district, for two several Sundays at least, before the first holding of such district meeting so appointed: Provided always, that it shall be lawful for the justices of the peace of any county, at any Michaelmas meeting as aforesaid, after previous notice by three advertisements published one month before such Michaelmas meeting in any newspaper or newspapers circulated within the district to be affected by the change proposed to be made, at any time to alter or change any district or place of district meeting by them appointed, due notice thereof being given, in like manner as aforesaid, at every parish church, before the next holding of such district meeting.

6. If in any Royal Burgh a sufficient number of Magistrates are not present, the Justices of the County may act, and the Burgh Magistrates with them.—If in any royal burgh there shall not be a sufficient number of magistrates present who are qualified to grant certificates according to the directions of this Act, at any time when such certificates are hereby appointed to be granted, in such case it shall and may be lawful for the justices of the peace of the county in which such royal burgh is situated to grant certificates for such royal burgh, at the same time and in the same manner as they are hereby empowered to grant certificates for the county: Provided always, that any magistrates of such burgh, so qualified, may and are hereby authorized and empowered in such case to act along with such justices in granting such certificates.

7. Certificates to keep Inns, &c. to be granted at Meetings—Meetings to be held with open Doors—No application for Renewal to be refused without hearing the Applicant.—At such general or district meetings, or at any adjournment thereof, within the respective periods aforesaid, it shall be lawful for the said justices and magistrates respectively to grant certificates for the year next ensuing, commencing as after mentioned, to such and so many persons as the justices or magistrates then assembled at such general or district meeting, or the major part of them, shall think meet and convenient, to keep common inns, alehouses, or victualling houses, within which ale, beer, spirits, wine, and other exciseable liquors, may, under excise licences, be sold by retail, to be drunk or consumed in the premises, within their respective counties, districts, or royal burghs; and such justices or magistrates shall deliver or cause to be delivered to every person so authorized or empowered a certificate, written or printed on paper, in such form as herein-after directed: Provided always, that all such meetings shall be held with open doors; and that it shall not be competent to refuse the renewal of any certificate without hearing the party in support of the application for renewal in open court, if such party shall think fit to attend; and that there shall be at least two justices of the peace or magistrates respectively present at such meetings; and any certificate granted otherwise than at such meetings shall be void and of no effect.

8. Certificate to be confined to one House and Premises—Proviso as to Fairs, &c.—No such certificate as aforesaid shall entitle any person to keep a common inn, alehouse, or victualling house, or to obtain an excise licence for selling ale, beer, spirits, wine, or other exciseable liquors, by retail, to be drunk or consumed in any other house or premises than the house and premises specified in such certificate: Provided always, that nothing in this Act contained shall be construed to prohibit any person who shall have obtained such certificate from selling ale, beer, spirits, wine, or other exciseable liquors, in boats or vessels moored in rivers, at any time, or in houses, booths, or other places, at the time and within the limits of the ground, town, or place in or upon which is holden any lawful fair, in the same parish with the house or premises for which any person shall have obtained a certificate as aforesaid, or in any parish immediately adjoining thereto.

9. Certificate to be in force for a year or six months.—Every such certificate as aforesaid shall be in force for one whole year, commencing at the term of Whitsunday, or for six months from Martinmas respectively, according to the period of the year at which such certificate was granted, and no longer.

[*S.* 10, *as to lodging applications for certificates, rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

11. Magistrates and Justices may make Regulations regarding Applications, and for ascertaining Character of Applicants, &c.—It shall be lawful for the justices or magistrates respectively, assembled at any such general or district meeting as aforesaid, to make such regulations and rules as they shall think fit, not being inconsistent with the provisions of this Act, as to the manner of making such applications, as well for ascertaining the character of the applicants, as whether it be expedient to grant such certificates in the places in which they are sought to be obtained, and also as to the mode of proceeding in transferring certificates as herein-after mentioned.

12. Names and Designations of Applicants, &c. to be entered in a Book, and kept by the Clerk of the Justices—Result of Applications to be also entered.—The names and designations of all persons who make applications for such certificates shall be entered in a book or register, to be kept by the clerk of such justices or magistrates respectively, wherein the names and designations of new applicants shall be entered separately, which book or register shall contain columns for the designations of such applicants, for the names of the persons who recommend them, for the house and place for which such certificate is applied, for the manner in which the application is disposed of, and for noting a memorandum of convictions under this Act against such persons respectively, and the dates thereof; and the cases of new applicants shall not be considered until all the other cases shall have been disposed of; and at the end of the meeting for each day, a deliverance shall be written in such book or register, specifying whether such applications respectively were granted or refused, or continued for farther inquiry, or how otherwise disposed of; and such deliverance shall be then and there signed by the major part of such justices or magistrates so assembled, or by the preses of the meeting, according to the form contained in the schedule annexed to this Act, therein designated by the letter A.; and it shall not be lawful for the justices or magistrates at any adjourned meeting to alter any thing which was done at any previous meeting in granting or refusing such certificates; and the clerk of such justices or magistrates shall make out a certificate in the form contained in the schedule annexed to this Act designated by the letter B., specifying the date from which such certificate shall be current.

13. Persons interested not to act as Justices—Penalty, L.50.—No justice of the peace or magistrate in any county or royal burgh, who is a brewer, maltster, distiller, or dealer in or retailer of ale, beer, spirits, wine, or other exciseable liquors, or who shall be in partnership with any person as a brewer, maltster, distiller, or dealer in or retailer of ale, beer, spirits, wine, or other exciseable liquors, shall act as such justice of the peace or magistrate respectively in the execution of this Act; nor shall any justice of the peace or magistrate act in the granting of any certificate when he shall be the proprietor or tenant of the house or premises for which such certificate shall be applied for; and every thing done by a justice of the peace or magistrate respectively in any case in which he is so disqualified to act shall be null and void; and every justice of the peace or magistrate, who shall knowingly or wilfully offend in any of the premises aforesaid, shall forfeit and pay the sum of fifty pounds, to be recovered, by any person who will prosecute for the same, before the sheriff of the county, within six calendar months next after the offence has been committed.

14. Appeal from Decision of Meeting of Justices to Quarter Sessions.—If any justice of the peace, or proprietor or occupier of any house in respect whereof any such certificate shall be applied for, shall be dissatisfied with any proceeding of any justices or magistrates assembled for granting certificates as aforesaid, whether in granting or refusing or otherwise disposing of any such application, it shall be lawful to such justices of the peace, proprietor, or occupier, to appeal therefrom to the next quarter sessions of the peace for the county: Provided always, that such appeal shall be lodged with the clerk of the peace within ten days after such proceeding; and provided such appellant, being a proprietor or occupier as aforesaid, shall find caution to abide such appeal and the expences thereof, and shall give intimation of such appeal to the opposite party, and to the justices of whose proceeding he complains.

15. Licensed persons to use, in sale of Liquors, Standard Measures—Penalty, 40s., and forfeiture of Illegal Measure.—Every person licensed to sell exciseable liquors by retail, to be drunk or consumed in his house or premises, shall sell or other-

wise dispose of all such liquors by retail therein (except in quantities less than half a pint), by the gallon, quart, pint, or half pint measure, sized according to the standard, and shall, if required by any guest or customer purchasing such liquor, retail the same in a vessel sized according to such standard, and in default thereof he shall forfeit and pay for every such offence the illegal measure and a sum not exceeding forty shillings, to be recovered with expences, at the instance of any person who shall prosecute for the same, before the sheriff or justices of the peace; and such penalty shall be over and above all penalties to which the offender may be liable under any other Act.

16. Penalty on Clerk for unduly giving or refusing Certificate, &c.—L.20.—If any clerk of the peace or town clerk respectively shall knowingly and wilfully issue or deliver any such certificate as aforesaid, contrary to the deliverance in such book or register, or to any person not duly authorized to receive the same by the justices or magistrates assembled at such general or district meeting, or if any such clerk shall knowingly and wilfully insert any untrue date in any such certificate, or shall refuse to deliver such certificate to any person duly authorized as aforesaid to receive the same, every such clerk shall for every such offence forfeit the sum of twenty pounds, to be recovered, by any person who will prosecute for the same, before the sheriff of the county, during the period of one year for which such certificate appears to have been granted or ought to have been granted, or within six months after the expiry of the said period.

17. List of persons who have obtained Certificates to be sent to the Excise Collector of the District—Penalty on Clerk of Justices for neglect.—Within eight days next after the time during which such meetings as aforesaid may be held respectively shall have expired, the clerks of such magistrates and justices respectively shall transmit to the collector or supervisor of excise in the particular collection or district in which any such certificate shall have been granted a list of all the persons there who have obtained such certificates for that collection or district for the current year, which list shall be made out from the books or registers herein-before appointed to be kept by such clerks respectively, and shall contain the same heads and titles, filled up according to the deliverance signed by the justices and magistrates assembled at the meeting; and every such list, when so made out, shall be duly certified by the subscription of such clerks respectively, and transmitted as aforesaid; and such clerk shall, upon the delivery thereof, be entitled to receive from such collector or supervisor as aforesaid a remuneration for his trouble in making out the same, at and after the rate of one penny for the name of each person contained in such list to whom it has been resolved that a certificate shall be granted as aforesaid; and if any such clerk shall refuse or neglect to make out and send such lists as aforesaid, he shall for every such offence forfeit the sum of five pounds, to be recovered, by any person authorized by the commissioners of excise to prosecute for it, before the sheriff of the county, within six calendar months next after the offence has been committed.

18. No Excise Licence to be granted to any person unless he shall have obtained the Justices Certificate.—No licence for the sale of any exciseable liquors by retail, to be drunk or consumed on the premises of the person licensed, shall be granted by the commissioners of excise, or by any officer of excise, to any person whatsoever, unless such person shall have previously obtained from the justices a certificate under this Act, and which said certificate of such justices shall be retained by such person, after being produced to the commissioners or officers of excise; and every licence granted by the commissioners of excise, or by any officer of excise, contrary to this provision, shall be null and void to all intents and purposes.

S. 18 *rep.* 36 & 37 *Vict. c.* 91 (*S.L.R.*), *but revived* 41 & 42 *Vict. c.* 79 (*S.L.R.*).

19. Certificates may be transferred on Death or Removal of persons to whom they were granted.—Provided always, that if any person duly authorized to keep a common inn, alehouse, or victualling house as aforesaid shall die before the expiration of the certificate to him or her in that behalf granted, it shall be lawful for any two or more of the justices of the peace or magistrates of the county or royal burgh respectively, in which such house and premises are situated, to grant to the executors, representatives, or disponees of the person so dying, and who shall be possessed of such house or premises, a transfer of the certificate to keep and continue such house or premises as a common inn, alehouse, or victualling house, as before such death, until the next general or district meeting to be held under the authority of this Act; and provided also, in like manner,

that if any person so authorized, or the executors, representatives, or disponees of a person dying so authorized, and who, upon such death, shall have obtained such transfer of certificate as aforesaid, shall remove from or yield up the possession of the house and premises for which such certificate shall have been granted, it shall be lawful for two or more justices of the peace or magistrates respectively as aforesaid, sitting publicly in their ordinary place of meeting, to grant to any new tenant or occupier of such house and premises, upon such removal, a transfer of the certificate to keep such house and premises as a common inn, alehouse, or victualling house, as before such removal, until the next general or district meeting to be held under the authority of this Act.

20. Transfer of Certificate to be in Form C. in the Schedule.—The transfer certificate to be granted on such death or removal as aforesaid shall be in the form contained in the schedule annexed to the body of this Act, and therein designated by the letter C., and shall be held on the same terms and conditions, and in the same manner, as a certificate granted at any general or district meeting, for which transfer certificate a fee of one shilling and no more shall be payable to the clerk.

21. Penalties for Offences against the terms of the Certificate—1st Offence—2d Offence—3d Offence—Penalties may be mitigated.—Every certificate to be granted under the authority of this Act shall be and be held on the terms, provisions, and conditions therein contained; and in case any person or persons authorized to keep a common inn, alehouse, or victualling house under such certificate, and having excise licences for the sale of ale, beer, spirits, wine, or other exciseable liquors, to him or her in that behalf granted, shall offend against any of the terms and conditions contained in such certificate, every person so offending shall for every such offence forfeit and undergo the several penalties and disabilities herein-after mentioned; that is to say, for the first offence the sum of five pounds, with the expences of conviction, to be ascertained upon conviction; and in case such penalty and expences shall not be paid within the space of fourteen days next after such conviction shall have taken place, the offender shall suffer imprisonment upon his own charges and expences, for a period of one calendar month, in the common gaol, or house of correction, unless he or she shall sooner pay such penalty, and the expences of such conviction, and of executing the same; and in addition to such penalty, the certificate granted to such person may be declared to be forfeited and to become void and null; and for the second offence the offender shall forfeit the sum of ten pounds, with the expences of conviction, to be ascertained upon conviction; and in case such penalty and expences shall not be paid within the space of fourteen days next after such second conviction shall have taken place, then the offender shall suffer imprisonment upon his own charges and expences, for a period of two calendar months, in the common gaol or house of correction, unless he or she shall sooner pay such second penalty, and the expences of conviction, and of executing the same; and in addition to such penalty, the certificate granted to such person may be declared to be forfeited and to become void and null; and for the third offence, the offender shall forfeit the sum of twenty pounds, with the expences of conviction, to be ascertained upon conviction; and in case such penalty and expences shall not be paid within fourteen days after such conviction shall have taken place, then the offender shall suffer imprisonment upon his own charges and expences, for a period of four calendar months, in the common gaol or house of correction, unless he or she shall sooner pay such third penalty, and the expences of conviction, and of executing the same; and in addition to such penalty, the certificate granted to such person shall be declared to be forfeited and to become void and null; and it is hereby provided and declared, that the several penalties and terms of imprisonment before mentioned may be mitigated by the court; provided always, that by such mitigation such penalties and terms of imprisonment respectively shall not be reduced to less than one fourth part thereof.

22. What shall be deemed 2d and 3d Offences.—If any person shall have been convicted of any breach of the terms and conditions of the certificate held by him or her in one year as a first offence, and such person shall, in the following or any subsequent year within three years after, be charged with a breach of the terms and conditions of any other such certificate subsequently obtained by such person, and be thereof convicted, such conviction shall be deemed and taken to be a conviction for a second offence; and so in like manner, if such person shall be again convicted within three years, it shall be deemed and taken to be a conviction for a third offence within

the meaning of this Act; and that notwithstanding of such second or third offence being in breach of other and different terms and conditions, or of other and different certificates obtained subsequently to the certificate for the breach of the conditions of which the first and second conviction took place.

23. Manner of Complaint and form of Procedure—Form of Records.—It shall be lawful for any person or persons to make complaint unto and before the sheriff, or before any two or more justices of the peace for the county, or before the court of any royal burgh, within whose jurisdiction the person complained against shall reside, stating in such complaint that the defender is a person keeping a common inn, alehouse, or victualling house, under a certificate to him or her, in that behalf granted, and selling ale, beer, spirits, wine, or other exciseable liquors by retail under excise licences, and setting forth the particular breach or breaches of the terms and conditions of the certificate complained of, and also whether it is the first, second, or third offence, as the case may be; and thereupon the sheriff or bailie, or the justices to or before whom such complaint shall have been made, shall grant a warrant to the officers of court to summon the party complained against to appear at a time and place to be specified in such warrant and summons, (such summons being served at least six free days before the diet of appearance,) to attend the hearing of such complaint; at which time and place, if the said party shall appear and plead to such charge, or in case of his or her not appearance, on proof by the oath of the constable or other officer of his having served such summons as herein-after directed at least six free days prior to the diet of appearance, it shall be lawful for such sheriff or bailie, or two or more justices of the peace, to inquire into the truth of the allegations in such complaint, and on the same being proved, either by the confession of the party complained against, or by the testimony on oath (or affirmation, if a Quaker) of one or more credible witness or witnesses, or upon other legal evidence, to pronounce judgment, and convict the party of the offence complained against, without any written pleadings or record of evidence; it being hereby provided, that a record shall be preserved of the charge and of the judgment pronounced: Provided always, that if such sheriff, bailie, or justices shall see cause, it shall be lawful to adjourn the hearing of such complaint to a subsequent day, to be by them at that time appointed; and it shall be lawful for any sheriff, bailie, or justices, before whom proceedings shall be had for the recovery of any of the penalties before mentioned, to summon before him or them any witness or witnesses, and to require them to produce any such writings or entries as may be required for the due decision of the case before them; and all such records, to be so preserved as aforesaid, shall be in the form contained in the schedule annexed to the body of this Act, therein designated by the letter D., or to such effect.

S. 23 *in part rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*), *but revived* 41 *&* 42 *Vict. c.* 79 (*S.L.R.*).

24. Service of notice to appear.—When any warrant shall be issued for summoning any person to appear and answer to any complaint for committing a breach of the terms and conditions of the certificate to him or her in that behalf granted, the directing such summons to such person by the name in which such certificate shall have been granted, or by the name by which such person is or has been usually known, whether the same be the real or assumed name of such person, and the leaving a copy of the complaint and of the warrant for summoning such person, with a citation annexed, subscribed by the officer, at the house, outhouse, or premises in which the offence shall have been committed, or, if admittance cannot be obtained, the affixing a copy thereof on the door or other conspicuous part of the outside of such house or premises, shall be deemed and taken to be as good, legal, and effectual a summons as if the same had been personally delivered to the party for whom such summons was intended, and to whom the same was intended to be served.

25. Appeal to Quarter Sessions.—If any person shall consider himself or herself to be aggrieved by any judgment, whether of conviction or of absolvitor, given upon any complaint presented under this Act by any two or more justices of the peace, it shall be lawful to such person to appeal therefrom to the justices assembled at the next quarter sessions held for the county in which the judgment so appealed against was given, which justices are hereby authorized and required to hear and finally adjudge such appeal: Provided always, that no such appeal shall be heard unless the appellant shall, within eight days next after such judgment, lodge his appeal with the clerk of

such justices of the peace, and shall find caution with such clerk to abide such appeal and to pay such sums as shall be finally awarded, and shall give intimation of such appeal by serving a copy thereof upon the opposite party within the said period of eight days.

S. 25 *rep.* 36 *& 37 Vict. c.* 91 (*S.L.R.*), *but revived* 38 *& 39 Vict. c.* 66 (*S.L.R.*).

[*S.* 26 *rep.* 36 *& 37 Vict. c.* 91 (*S.L.R.*).]

27. Clerk of the Peace, &c. to make a Duplicate of the Certificate when required, which shall be admitted as evidence.—Every clerk of the peace and clerk of any royal burgh shall, when lawfully required, make out from the books to be kept by them as aforesaid a duplicate or counterpart of any certificate issued by them, for which he shall be entitled to receive a fee of one shilling; which duplicate, being duly certified by such clerk, shall be admitted as sufficient evidence of the facts therein contained, and of the terms of such certificate, in all courts and legal proceedings, without production of the particular certificate originally granted.

28. Convictions under this Act to be transmitted to the Clerk of the Peace, and by him registered—Register to be produced at Meetings of Justices.—Every conviction under this Act for a breach or breaches of the terms and conditions of the certificate granted under the authority of this Act shall, within six days after such conviction, be transmitted by the person who shall officiate as clerk to the justices or magistrates at such conviction to the clerk of the peace of the county, or town clerk of the burgh, where the party convicted shall reside, under a penalty of five pounds, to be recovered, by any person who will prosecute for the same, before the sheriff of the county, within six months next after the time when such transmission ought to have been made; and such clerk of the peace and town clerk respectively shall keep such convictions among the records of the county or town respectively, and shall also enter in the book or register required to be kept by them as aforesaid, and opposite to the name of the person therein entered to whom the same applies, the date of the conviction, specifying therein whether the same is the first, second, or third conviction; and the said book or register shall be produced by the clerk of the peace and town clerk at every general or district meeting of justices and magistrates to be held in pursuance of this Act.

29. Clerk of the Peace, &c. to certify Convictions to the Commissioners of Excise—Certificate to be in Form E. in the Schedule.—The clerk of the peace of every county, and the town clerk of every royal burgh, shall certify to the commissioners of excise in Scotland, or to the collector or supervisor of excise in the particular collection or district, the conviction of every person convicted of an offence in breach of the conditions and terms of his or her certificate, by which conviction such certificate has thereupon been adjudged null and void; which certificate of conviction shall be transmitted to the said commissioners of excise, or collector or supervisor, within six days next after such conviction shall have taken place, if such clerk officiated as clerk to the justices or magistrates at such conviction, and, if such clerk did not so officiate, then within six days after such conviction shall have been transmitted to him, on pain of the said clerk of the peace, or town clerk, forfeiting for every neglect so to do the sum of five pounds, to be recovered, by any person who will prosecute for the same, before the sheriff of the county, within six months next after the transmission by this Act ought to have been made; and such certificate of conviction shall be in the form contained in the schedule annexed in the body of this Act, and designated by the letter E.

30. Penalties for selling without Certificate—1st Offence—2d Offence—3d Offence—Penalties may be mitigated—Penalties to be in addition to any Excise Penalties—Recovery of Penalties.—Every person in Scotland, who shall keep a common inn, alehouse, or victualling house, and sell ale, beer, spirits, wine, or other exciseable liquors, by retail, to be drunk or consumed on such premises, or the places immediately adjoining the same, without a certificate to him or her in that behalf granted, according to the provisions of this Act, shall, upon his or her being convicted thereof, as herein-after mentioned, forfeit and pay for the first offence the sum of seven pounds, with the expences of conviction, to be ascertained upon conviction; and in case such penalty and expences shall not be paid within the space of four days next after such conviction shall have taken place the offender shall suffer imprisonment, upon his own charges and

expences, for a period of six weeks, in the common gaol or house of correction, unless he or she shall sooner pay such penalty, and the expences of such conviction, and of executing the same; and for the second offence the offender shall forfeit the sum of fifteen pounds, with the expences of conviction, to be ascertained upon conviction; and in case such penalty and expences shall not be paid within the space of four days next after such second conviction shall have taken place, then the offender shall suffer imprisonment, upon his own charges and expences, for a period of three calendar months, in the common gaol or house of correction, unless he or she shall sooner pay such second penalty, and the expences of conviction, and of executing the same; and for the third offence the offender shall forfeit the sum of thirty pounds, with the expences of conviction, to be ascertained upon conviction; and in case such penalty and expences shall not be paid within four days after such conviction shall have taken place, then the offender shall suffer imprisonment, upon his own charges and expences, for a period of six months, in the common gaol or house of correction, unless he or she shall sooner pay such third penalty, and the expences of conviction, and of executing the same; and it is hereby provided and declared, that the penalties and terms of imprisonment before mentioned may be mitigated by the court; provided always, that by such mitigation such penalties and terms of imprisonment shall not be reduced to less than one fourth part thereof: Provided always, that such respective penalties shall be over and above any penalty or penalties which such person so convicted may have incurred or paid, or be liable to pay, for or by reason of his or her selling such ale, beer, spirits, wine, or other exciseable liquors, under any law or laws relating to the revenue of excise: And provided also, that the said penalties may be sued for and recovered before the sheriff court, or before any two or more of the justices of the peace for the county, or the court of the royal burgh, within whose jurisdiction the offender shall reside, by any person who will inform and prosecute for the same, within six months after such offence shall have been committed; and also, that the said terms of imprisonment may be imposed by the said courts accordingly.

31. Persons prosecuted may be convicted on their own Confession, or on the Oath of one Witness.—Any person prosecuted for keeping a common inn, alehouse, or victualling house, and retailing as aforesaid, without such certificate as aforesaid, may be legally convicted thereof on his or her own confession, or on proof by the oath (or affirmation, if a Quaker) of one or more credible witness or witnesses, or other legal evidence; and all such prosecutions shall be subject to the same rules, regulations, and provisions, as prosecutions for breaches of the terms of a certificate granted under or by virtue of this Act, in so far as the same are applicable thereto.

[*S.* **32** *rep.* 41 *&* 42 *Vict. c.* 79 (*S.L.R.*); *s.* **33** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

34. Penalty on Clerk taking Illegal Fees.—If any clerk shall demand or receive any greater or additional fee, or any other reward, for any thing done under this Act, than is thereby expressly authorized, or than is authorized by the schedule annexed to this Act, and designated by the letter F., such clerk so offending shall for every such offence forfeit and pay the sum of five pounds to any person who may prosecute for the same.

[*Ss.* **35, 36** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

SCHEDULE to which this Act refers.

(A.)

Form of Register of Applications.

[*Form* (*A.*) *was rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*); (*see now* 16 *&* 17 *Vict. c.* 67, *s.* 11, *and schedule*), *but part here printed is revived* 41 *&* 42 *Vict. c.* 79 (*S.L.R.*).]

Deliverance.
(At the end of each day's register.)
At May.
Numbers 2, 3, 6, (as the case may be) granted.
Numbers 1, 4, 5, refused.
Numbers 7, 8, continued (or otherwise disposed of). G.H.P.

. . . . . .

[*Form (B.) rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

(C.)

TRANSFER OF CERTIFICATE.

[Place and date.] WHEREAS A.L., designed in the within certificate for keeping a common inn, alehouse, or victualling house, at , for the retail of exciseable liquors under excise licences, has died: And whereas M.N., his executor, is desirous to have the said certificate transferred to him, in order that he may carry on the said business there [or as the case may be, in the event of removals]: And whereas it is considered by us, two of the justices of the peace for the county of [or two of the magistrates of the royal burgh of], that he is a person fit to be intrusted to carry on the said business there: We hereby transfer the said certificate to him accordingly, subject to all the conditions therein specified, in the same manner as if he were the person to whom it was originally granted; this certificate to be of force only until , being the next general [or district] meeting to be held for granting such certificates; and to be duly presented for entry at the office of excise, within days from this date, otherwise the same to be null and void to all intents and purposes.

G.H., J.P.
M.N., J.P.

(D.)

PROCEDURE FOR BREACH OF CERTIFICATE.

Form (D.) rep. 36 *&* 37 *Vict. c.* 91 (*S.L.R.*); (*see now* 25 *&* 26 *Vict. c.* 35, *s.* 26, *and schedule* (*D.*)), *but part here printed revived* 41 *&* 42 *Vict. c.* 79 (*S.L.R.*).

(5) WARRANT OF IMPRISONMENT for Recovery of Penalty and Expences.

[Place and date.] The justices [*or* sheriff or bailie] in respect that the above-mentioned *C.D.* has not paid to the sums of penalty and expences before mentioned, within the period allowed to him or her for doing so, which is now elapsed, grant warrant to constables of court to apprehend him, and incarcerate him in the tolbooth of , the keepers whereof are hereby ordered to receive and detain him for the period of from this date, unless the said sum shall be sooner paid.

G.H., J.P.
J.K., J.P.

NOTE.—*The proceedings against persons selling exciseable liquors without having obtained a certificate may be similar,* mutatis mutandis.

(E.)

NOTICE of CONVICTION for Breach of Certificate, for which the Certificate has been forfeited.

Unto the Honourable the Commissioners of His Majesty's Excise in Scotland, or to the Collector of Excise of Collection or District in Scotland.

This is to certify, that C.D., of , in the county [or royal burgh] of , was, on the day of in the year one thousand eight hundred and , at , convicted before G.H., esquire, and J.K., esquire, two of his Majesty's justices of the peace for [or as the case may be], for a breach of the conditions and terms of the certificate to him or her in that behalf granted; and the certificate of the said C.D. to keep a common inn, alehouse, or victualling house, has by the aforesaid justices been adjudged null and void. Given under my hand, this day of in the year one thousand eight hundred and .

S.K., Clerk of the Peace.

[*Form (F.) rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*); *see now* 25 *&* 26 *Vict. c.* 35, *s.* 32, *schedule* (*E.*)]

CHAPTER LXV.

THE BANK NOTES (No. 2) ACT, 1828.

AN ACT to restrain the Negotiation in England of Promissory Notes and Bills under a limited Sum issued in Scotland or Ireland. [15th July 1828.]

[*Preamble recites* 7 *Geo.* 4, *c.* 6.]

1. NO CORPORATION OR PERSON SHALL UTTER IN ENGLAND NOTES OR BILLS UNDER L.5 WHICH HAVE BEEN MADE OR ISSUED IN SCOTLAND OR IRELAND, UNDER PENALTY OF L.20.—If any body politic or corporate, or person or persons, shall, by any art, device, or means whatsoever, publish, utter, negotiate, or transfer, in any part of England, any promissory or other note, draft, engagement, or undertaking in writing, made payable on demand to the bearer thereof, and being negotiable or transferable, for the payment of any sum of money less than five pounds, or on which less than the sum of five pounds shall remain undischarged, which shall have been made or issued, or shall purport to have been made or issued, in Scotland or Ireland, or elsewhere out of England, wheresoever the same shall or may be payable, every such body politic or corporate, or person or persons, so publishing, uttering, negotiating, or transferring any such note, bill, draft, engagement, or undertaking, in any part of England, shall forfeit and pay for every such offence any sum not exceeding twenty pounds nor less than five pounds, at the discretion of the justice of the peace who shall hear and determine such offence.

2. PENALTIES SHALL BE RECOVERED, &C. UNDER 48 GEO. 3, C. 88.—The penalties which may be incurred under the provisions of this Act shall and may be recovered in a summary way, by information on complaint, before a justice or justices of the peace, and shall be levied and applied in the manner directed by an Act passed in the forty-eighth year of the reign of his late Majesty King George the Third, intituled "An Act "to restrain the negotiation of promissory notes and inland bills of exchange under a "limited sum in England," with respect to the penalties by the said last-mentioned Act imposed; and all and every the clauses and provisions in the said last-mentioned Act contained, relating to the recovery and application of the penalties thereby imposed, shall be applied and put in execution for the recovery and application of the penalties by this Act imposed, as fully and effectually to all intents and purposes as if such clauses and provisions had been herein repeated and expressly re-enacted.

3. THE TREASURY MAY ORDER A REMISSION OR MITIGATION OF PENALTIES.—Provided always, that it shall and may be lawful for the Treasury, to order and direct that the whole or any part of any penalty which shall be incurred under this Act shall and may be remitted, or mitigated or abated to such amount, and in such manner, and upon such conditions, as to the Treasury may seem fit and proper.

4. NOT TO EXTEND TO DRAFTS ON BANKERS FOR THE USE OF THE DRAWER.—Provided always, that nothing herein contained shall extend to any draft or order drawn by any person or persons on his, her, or their banker or bankers, or on any person or persons acting as such banker or bankers, for the payment of money held by such banker or bankers, person or persons, to the use of the person or persons by whom such draft or order shall be drawn.

CHAPTER LXVI.

THE NAUTICAL ALMANACK ACT, 1828 (*Short Titles Act*, 1896).

AN ACT for repealing the Laws now in force relating to the Discovery of the Longitude at Sea. [15th July 1828.]

[*Preamble recites* 58 *Geo.* 3, *c.* 20.]

[*S.* **1** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

2. LORD HIGH ADMIRAL MAY AUTHORIZE THE PUBLICATION OF THE NAUTICAL ALMANACK —PENALTY FOR PUBLISHING WITHOUT AUTHORITY.—And whereas the publication of the Nautical Almanack, constructed by proper persons for the finding of the longitude at

sea, is of great importance to the safety of ships and persons, and highly conducive to the general interests of commerce and navigation: Be it therefore enacted, that it shall and may be lawful to and for the lord high admiral or the commissioners for executing the office of lord high admiral of the United Kingdom of Great Britain and Ireland for the time being to cause such nautical almanacks, or other useful table or tables, which he or they shall from time to time judge necessary and useful in order to facilitate the method of discovering the longitude at sea, to be constructed, printed, published, and vended, free of all stamp duty whatever, in the same manner as the commissioners under the said Act of the fifty-eighth year of his late Majesty's reign might or could do; and that every person who, without the special licence and authority of the lord high admiral or commissioners for executing the office of lord high admiral aforesaid for the time being, to be signified under the hand of the secretary of the admiralty for the time being, shall print, publish, or vend, or cause to be printed, published, or vended, any such almanack or almanacks, or other table or tables, shall, for every copy of such almanack or table so printed, published, or vended, forfeit and pay the sum of twenty pounds, to be recovered, with costs of suit, by any person to be authorized for that purpose by the lord high admiral or commissioners for executing the office of lord high admiral aforesaid, (such authority to be signified under the hand of the secretary of the admiralty as aforesaid,) by action or information in any of his Majesty's courts of record at Westminster; and that the proceeds of the said penalty, when recovered, shall be paid and applied to the use of the Royal Hospital for Seamen at Greenwich.

CHAPTER LXIX.

THE NIGHT POACHING ACT, 1828 (*Short Titles Act*, 1896).

AN ACT for the more effectual Prevention of Persons going armed by Night for the Destruction of Game. [19th July 1828.]

[*Preamble.*]

1. PERSONS TAKING OR DESTROYING GAME OR RABBITS BY NIGHT, OR ENTERING ANY LAND FOR THAT PURPOSE, FOR 1ST OFFENCE, TO BE COMMITTED FOR THREE MONTHS, AND KEPT TO HARD LABOUR, AND TO FIND SURETIES; FOR 2ND OFFENCE, TO BE COMMITTED FOR SIX MONTHS, AND KEPT TO HARD LABOUR, AND TO FIND SURETIES; FOR 3D OFFENCE, TO BE LIABLE TO TRANSPORTATION FOR SEVEN YEARS, OR IMPRISONMENT WITH HARD LABOUR FOR TWO YEARS—PUNISHMENT IN SCOTLAND.—If any person shall by night, unlawfully take or destroy any game or rabbits in any land, whether open or enclosed, or shall by night unlawfully enter or be in any land, whether open or enclosed, with any gun, net, engine, or other instrument, for the purpose of taking or destroying game, such offender shall, upon conviction thereof before two justices of the peace, be committed for the first offence to the common gaol or house of correction for any period not exceeding three calendar months, there to be kept to hard labour, and at the expiration of such period shall find sureties by recognizance, or in Scotland by bond of caution, himself in ten pounds, and two sureties in five pounds each, or one surety in ten pounds, for his not so offending again for the space of one year next following, and in case of not finding such sureties shall be further imprisoned and kept to hard labour for the space of six calendar months, unless such sureties are sooner found: and in case such person shall so offend a second time, and shall be thereof convicted before two justices of the peace, he shall be committed to the common gaol or house of correction for any period not exceeding six calendar months, there to be kept to hard labour, and at the expiration of such period shall find sureties by recognizance, or bond as aforesaid, himself in twenty pounds, and two sureties in ten pounds each, or one surety in twenty pounds, for his not so offending again for the space of two years next following, and in case of not finding such sureties shall be further imprisoned and kept to hard labour for the space of one year, unless such sureties are sooner found; and in case such person shall so offend a third time he shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be transported beyond seas for seven years, or to be imprisoned and kept to hard labour in the common gaol or house of correction for any term not exceeding two years; and in Scotland, if any person shall so

offend a first, second, or third time, he shall be liable to be punished in like manner as is hereby provided in each case.

2. Owners or Occupiers of Land, Lords of Manors, or their Servants, may apprehend Offenders—Offenders assaulting or offering Violence shall be guilty of misdemeanor, and be liable to be transported for seven years, or imprisoned for two years.—Where any person shall be found upon any land committing any such offence as is herein-before mentioned it shall be lawful for the owner or occupier of such land, or for any person having a right or reputed right of free warren or free chase thereon, or for the lord of the manor or reputed manor wherein such land may be situate, and also for any gamekeeper or servant of any of the persons herein mentioned, or any person assisting such gamekeeper or servant, to seize and apprehend such offender upon such land, or, in case of pursuit being made, in any other place to which he may have escaped therefrom, and to deliver him as soon as may be into the custody of a peace officer, in order to his being conveyed before two justices of the peace; and in case such offender shall assault or offer any violence with any gun, crossbow, fire arms, bludgeon, stick, club, or any other offensive weapon whatsoever, towards any person hereby authorized to seize and apprehend him, he shall, whether it be his first, second, or any other offence, be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be transported beyond seas for seven years, or to be imprisoned and kept to hard labour in the common gaol or house of correction for any term not exceeding two years; and in Scotland, whenever any person shall so offend, he shall be liable to be punished in like manner.

3. Power to issue a Warrant for apprehension of Offenders.—Where any person shall be charged on the oath of a credible witness, or in Scotland on the application of the procurator fiscal of court, before any justice of the peace, with any offence punishable upon summary conviction by virtue of this Act, the justice may issue his warrant for apprehending such person and bringing him before two justices of the peace, to be dealt with according to law.

4. Limitation of time for proceedings under this Act.—The prosecution for every offence punishable upon summary conviction by virtue of this Act shall be commenced within six calendar months after the commission of the offence; and the prosecution for every offence punishable upon indictment, or otherwise than upon summary conviction, by virtue of this Act, shall be commenced within twelve calendar months after the commission of such offence.

5. Form of Summary Conviction.—The justices of the peace before whom any person shall be summarily convicted of any offence against this Act may cause the conviction to be drawn up in the following form of words, or in any other form of words to the same effect, as the case may require; that is to say,

'Be it remembered, that on the day of in the year of our Lord ' , at , in the county of [or riding, division, ' liberty, city, &c., as the case may be], A.O. is convicted before us [naming the justices], ' two of his Majesty's justices of the peace for the said county [or riding, &c.], for that ' he, the said A.O., did [specify the offence, and the time and place when and where ' the same was committed, as the case may be, and on a second conviction state the ' first conviction]; and we the said justices adjudge the said A.O. for his said offence ' to be imprisoned in the , and there kept to hard labour for the period ' of , and at the expiration of such period to find sureties, by ' recognizance, or bond of caution in Scotland, himself in the sum of ten pounds and ' two sureties in the sum of five pounds each, or one surety in the sum of ten pounds, ' conditioned that he, the said A.O., shall not so offend again for the space of one year ' next following; and we further adjudge the said A.O., in case he shall not find such ' sureties as aforesaid, to be further imprisoned and kept to hard labour for the space ' of six calendar months, unless such sureties shall be sooner found. Given under our ' hands, the day and year first above mentioned.'

6. Appeal against Summary Conviction.—Any person who shall think himself aggrieved by any such summary conviction may appeal to the next court of general or quarter sessions which shall be holden, not less than twelve days after the day of such conviction, for the county, riding, or division wherein the cause of complaint shall have arisen; provided that such person shall give to the complainant a notice in writing of such appeal, and of the cause and matter thereof, within three days after such conviction,

and seven clear days at the least before such sessions, and shall also either remain in custody until the sessions, or within such three days enter into a recognizance, or bond of caution in Scotland, with a sufficient surety, before a justice of the peace, conditioned personally to appear at the said sessions, and to try such appeal, and to abide the judgment of the court thereupon, and to pay such costs as shall be awarded by the court; and upon such notice being given, and such recognizance or bond being entered into, the justice before whom the same shall be entered into shall liberate such person if in custody; and the court at such sessions shall hear and determine the matter of the appeal, and shall make such order therein, with or without costs to either party, as to the court shall seem meet; and in case of the dismissal of the appeal, or the affirmance of the conviction, shall order and adjudge the offender to be dealt with and punished according to the conviction, and to pay such costs as shall be awarded, and shall, if necessary, issue process for enforcing such judgment.

7. No Certiorari, &c.—No such conviction, or adjudication made on appeal therefrom, shall be quashed for want of form, or be removed by certiorari, or otherwise, into any of his Majesty's superior courts of record, or in Scotland by advocation or suspension into any superior court; and no warrant of commitment shall be held void by reason of any defect therein, provided it be therein alleged that the party has been convicted, and there be a good and valid conviction to sustain the same.

8. Convictions to be returned to the Quarter Sessions and registered, and may be given in Evidence.—On every conviction under this Act for a first or second offence the convicting justices shall return the same to the next quarter sessions for the county, riding, division, city, or place, wherein such offence shall have been committed; and the record of such conviction, or any copy thereof, shall be evidence in any prosecution to be instituted against the party thereby convicted for a second or third offence; and the clerk of the peace shall immediately on such return make or cause to be made a memorandum of such conviction in a register to be kept by him of the names and places of abode of the persons so convicted, and shall state whether such conviction be the first or second conviction of the offending party.

9. If persons to the number of three, being armed, enter any Land for the purpose of taking or destroying Game or Rabbits, they shall be deemed guilty of a Misdemeanor—Punishment.—If any persons, to the number of three or more together, shall by night unlawfully enter or be in any land, whether open or inclosed, for the purpose of taking or destroying game or rabbits, any of such persons being armed with any gun, crossbow, fire arms, bludgeon, or any other offensive weapon, each and every of such persons shall be guilty of a misdemeanor, and being convicted thereof before the justices of gaol delivery, or of the court of great sessions of the county or place in which the offence shall be committed, shall be liable, at the discretion of the court, to be transported beyond seas for any term not exceeding fourteen years nor less than seven years, or to be imprisoned and kept to hard labour for any term not exceeding three years; and in Scotland any person so offending shall be liable to be punished in like manner.

10. Jurisdiction of Sheriffs in Scotland—Proving of Convictions.—In Scotland the sheriff of the county within which the offence shall have been committed shall have a cumulative jurisdiction with the justices of the peace in regard to the same; and the conviction in Scotland may be proved in the same manner as a conviction in any other case according to the law of Scotland.

11. Certain Offences to be tried before High Court or Circuit Courts of Justiciary.—In all cases in Scotland of a third offence, or in other cases in Scotland where a sentence of transportation may, by the provisions of this Act, be pronounced, the offender shall be tried before the High Court or circuit court of Justiciary.

12. What time shall be considered Night.—Provided always, that for the purposes of this Act the night shall be considered and is hereby declared to commence at the expiration of the first hour after sunset, and to conclude at the beginning of the last hour before sunrise.

13. What shall be deemed Game.—For the purposes of this Act the word "game" shall be deemed to include hares, pheasants, partridges, grouse, heath or moor game, black game, and bustards.

CHAPTER XCII.

THE SAVINGS BANK ACT, 1828 (*Short Titles Act*, 1896).

AN ACT to consolidate and amend the Laws relating to Savings Banks.[1]

[28th July 1828.]

[1] *Rep.* 26 & 27 *Vict. c.* 87, *s.* 1, *with a proviso in sect.* 68, *that that Act shall not be held to repeal any of the existing statutes relating to savings banks in so far as relates to post office savings banks established or to be established under* 24 & 25 *Vict. c.* 14, *nor to repeal any of the powers and authorities vested by these Acts in the commissioners for the reduction of the national debt in regard to the control, management, investment, conversion, and regulation of the funds remitted by the trustees of savings banks or by the trustees of friendly societies to the said commissioners.*

[*Preamble.*]

[*Ss.* **1–10, 11** (*authorizing trustees of savings banks to pay into the Banks of England or Ireland sums not less than* L.50, *to the account of the national debt commissioners to be placed to the account "The Fund for the Banks for Savings"*), *and* **12–14** *rep.* 36 & 37 *Vict. c.* 91 (*S.L.R.*).]

15. MONIES PAID IN ON SAVINGS BANKS ACCOUNT TO BE INVESTED BY NATIONAL DEBT COMMISSIONERS IN BANK ANNUITIES OR EXCHEQUER BILLS.—The said commissioners shall cause all the monies paid into the Banks of England and Ireland respectively, and placed to their account in pursuance of the provisions of this Act, to be invested from time to time, under such regulations as the said commissioners shall direct, in the purchase of bank annuities or Exchequer bills, or in either of them, in their names, and to be carried to the account herein-before provided; and the interest which shall arise from time to time and become due thereon shall in like manner be invested in the purchase of Government annuities or of Exchequer bills as aforesaid.

[*Ss.* **16–24** *rep.* 36 & 37 *Vict. c.* 91 (*S.L.R.*); *s.* **25** *rep.* 50 & 51 *Vict. c.* 40, *s.* 11; *s.* **26** *rep.* 36 & 37 *Vict. c.* 91 (*S.L.R.*).]

27. CHARITABLE SOCIETIES MAY INVEST SUMS NOT EXCEEDING L.100 PER ANNUM, OR L.300 IN THE WHOLE, IN SAVINGS BANKS.—It shall and may be lawful for the trustees or treasurers of any charitable or provident institution or society in England or Ireland, or charitable donation or bequest, for the maintenance, education, or benefit of the poor, from time to time to subscribe any part of the funds of such institution or society into the funds of any savings banks, if the trustees or managers thereof shall be willing to receive the same, to the amount of one hundred pounds per annum, provided the amount of the sum to be invested by such institution or society shall not at any time exceed the sum of three hundred pounds in the whole, exclusive of interest.

28. FRIENDLY SOCIETIES MAY SUBSCRIBE ANY PORTION OF THEIR FUNDS INTO SAVINGS BANKS.—It shall be lawful, if the trustees or managers of any savings banks shall think proper, for any friendly society established under and by virtue of any Act or Acts relating to friendly societies from time to time to subscribe the whole or any part of the funds of such friendly society, as they shall from time to time direct, through their treasurer, steward, or other officer or officers, into the funds of any institution which shall take the benefit of this Act, and which shall be willing to receive the same, under such terms and conditions as shall be specially provided for that purpose by the rules, orders, and regulations of such institution: . . . . . .

S. **28** *in part rep.* 36 & 37 *Vict. c.* 91 (*S.L.R.*).

[*S.* **29** *rep.* 50 & 51 *Vict. c.* 40, *s.* 11.]

30. MEMBERS OF FRIENDLY OR CHARITABLE SOCIETIES NOT LIABLE TO DISABILITY IN THOSE SOCIETIES BY BECOMING A DEPOSITOR IN ANY INSTITUTION UNDER THIS ACT—NO DEPOSITOR LIABLE TO PENALTY FOR BELONGING TO A SOCIETY MAKING DEPOSIT IN ANY OTHER BANK.—No person who is or shall be a member of any friendly society established or to be established under and by virtue of any Act or Acts relating to friendly societies, or a member of any of the charitable institutions herein-before mentioned, shall, by reason of such person being or becoming a depositor in any institution taking the benefit of this Act, be considered as subject or liable to any penalty, forfeiture, or disability

declared or expressed, or intended so to be, by or in the rules, orders, or regulations of such friendly society; any rules, orders, or regulations of such friendly society made, or hereafter to be made, to the contrary notwithstanding: Provided also, that no depositor shall be subject or liable to any penalty or forfeiture on account of his belonging to or being interested in the funds of any friendly society or charitable society deposited in any other savings bank.

S. **31** *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*); *ss.* **32–34** *rep.* 50 *&* 51 *Vict. c.* 40, *s.* 11; *s.* **35** *rep.* 56 *&* 57 *Vict. c.* 69.]

[*S.* **36** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*); *s.* **37** *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*); *ss.* **38, 39** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*); *ss.* **40–44** *rep.* 50 *&* 51 *Vict. c.* 40, *s.* 11; *ss.* **45–49** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

50. National Debt Commissioners may invest Monies paid to their Account in purchase of Exchequer Bills, and shall be entitled to an amount of L.3 per cent. Bank Annuities equal in value to Bills purchased.—It shall and may be lawful for the said commissioners, and they are hereby authorized and empowered, to lay out, from time to time, (if they shall deem it expedient, and under such regulations as the said commissioners shall direct,) the whole or any part of the monies which shall be standing in their names in the books of the Banks of England and Ireland respectively, in pursuance of this Act, in the purchase of Exchequer bills held by the said banks respectively or by the public, as the case may be; and the said commissioners shall be entitled to receive, for the sum or sums laid out by them in Exchequer bills, such an amount of three pounds per centum consolidated or reduced annuities, transferable at the Bank of England, as the said sum or sums of money would have bought if the same had been applied to the purchase of three pounds per centum annuities, estimating the amount of such annuities at the quarterly average price of three pounds per centum annuities which shall have been purchased with the monies commonly called the sinking fund in the same quarter of the year in which such Exchequer bills shall have been purchased; and the said three pounds per centum annuities, and the dividends arising thereon from time to time, shall constitute and form part of the funds belonging to the said commissioners on account of the said savings banks, and shall be subject to the same provisions and to the same and the like purposes as all other capital stocks and dividends standing in their names on the said account shall and may be subject and liable to; and the accountant general of the said governor and company shall, within five days after such entry shall have been made as aforesaid, certify to the said commissioners the amount of the three pounds per centum annuities so placed upon their said account under the provisions of this Act.

51. The Comptroller General shall certify to the Treasury, quarterly, the amount of Principal and Interest paid for Exchequer Bills, and the Treasury shall order the requisite amount of L.3 per cent. Annuities to be placed to the credit of the Commissioners.—The comptroller general or assistant comptroller acting under the said commissioners shall at the end of every quarter of the year in which such Exchequer bills shall have been purchased by or on account of the said commissioners as aforesaid, certify to the Treasury the amount of the principal and interest paid for the same (and also the amount and description of three pounds per centum annuities which might have been purchased with such principal and interest, estimated at the quarterly average price of three pounds per centum annuities as aforesaid); and thereupon it shall and may be lawful for the Treasury, and they are hereby authorized and required, by warrant, from time to time to order and direct the Bank of England to direct their accountant general to enter and place to the credit of the said commissioners, upon the account standing in their names in the books of the said bank, under the title of "The Fund for the Banks for Savings," the amount of the three pounds per centum consolidated or reduced annuities (as the case may be) contained from time to time in every such certificate; the first half-yearly payment of the dividends whereof shall commence from the day on which the last half-yearly dividends were due and payable on the said three pounds per centum consolidated or reduced annuities, as the case may be.

52. L.3 per centum Annuities created by purchase of Exchequer Bills shall be added to the existing Annuities, and chargeable upon the Consolidated Fund

—The three pounds per centum annuities which shall be created from time to time by the purchase of Exchequer bills under and by virtue of this Act shall be deemed and taken to be and shall from time to time be added to and shall form part of the capital of the three pounds per centum consolidated or reduced annuities (as the case may be) transferable at the Bank of England, and the dividends arising thereon shall, as the same shall become due, be charged upon, and be payable out of, and the same are hereby made chargeable upon, the consolidated fund of the United Kingdom of Great Britain and Ireland.

53. Exchequer Bills purchased shall be cancelled or exchanged for new Bills.—It shall and may be lawful for the said commissioners to cause all or any part of the Exchequer bills purchased by them, or on their account, under the provisions of this Act, to be delivered to the paymasters of Exchequer bills, to be cancelled, within five days after the expiration of the quarter of the year in which such bills shall have been so purchased; and the said paymasters are in such case hereby required, upon the delivery thereof, to cancel the same accordingly; and it shall and may be lawful to the said commissioners to exchange from time to time any part of such Exchequer bills, not so delivered to be cancelled, for new bills of the like amount (if they shall deem it expedient to do so), according to the usual course of the Exchequer, anything hereinbefore contained to the contrary thereof in anywise notwithstanding.

54. Commissioners may sell any part of the Bank Annuities, and invest the Proceeds in Exchequer Bills.—Provided always, that it shall and may be lawful for the said commissioners, and they are hereby authorized and empowered, to sell from time to time, if they shall deem it expedient, any part of the said bank annuities which shall be standing in their names in the books of the Bank of England and Ireland respectively, in pursuance of the said recited Acts[1] or this Act, and to apply the whole or any part of the monies produced by such sale or sales in the purchase of Exchequer bills, in the same manner and under the same regulation and provisions as any other monies are authorized by this Act to be so invested by the said commissioners.

[1] 57 *Geo.* 3, *cc.* 105, 130, 58 *Geo.* 3, *c.* 48, 1 *Geo.* 4, *c.* 83, *and* 5 *Geo.* 4, *c.* 62.

55. Treasury may issue Exchequer Bills on application of Commissioners for payments to Savings Banks or Friendly Societies.—It shall and may be lawful for the said commissioners, or for the proper officer or officers of the said commissioners, from time to time, to make application to the Treasury, stating and certifying what sum of money may be required for satisfying any demands which shall from time to time be made upon the said commissioners for the reduction of the national debt by the trustees of any savings bank or friendly society in England or Ireland, and thereupon it shall and may be lawful for the Treasury, in case they shall think fit and proper so to do, by warrant, to cause or direct any number of Exchequer bills to be made out at the receipt of his Majesty's Exchequer in Great Britain, for such sum or sums of money as shall be from time to time stated and certified in any such application of the said commissioners, or their officer or officers under the direction of the said commissioners, or for any part of any such sum or sums; . . . . . .

S. 55 *in part rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*)

56. Banks of England or Ireland may make Advances to Commissioners upon Exchequer Bills issued to or purchased by them.—It shall and may be lawful for the Bank of England and Bank of Ireland respectively from time to time to advance to the said commissioners for the reduction of the national debt such sum or sums of money, on the credit of such Exchequer bill or bills issued to or purchased by the commissioners under the provisions of this Act as aforesaid, at such time or times, and under such regulations for the purposes of this Act, as shall be agreed upon by the said commissioners and the Banks of England and Ireland respectively, and at such times as the said commissioners shall from time to time require; any law or statute to the contrary thereof in anywise notwithstanding.

57. How Exchequer Bills issued to the Commissioners shall be paid off by them—When such Bills are paid off by Advances from the Sinking Fund, the sum advanced shall be replaced out of the Monies on the Savings Banks or Friendly Societies Account.—The principal sum of every such Exchequer bill which shall have been issued to the said commissioners upon their application, for the purposes herein-

before directed, and upon which any sum of money shall have been so advanced by the Banks of England or of Ireland respectively, under the provisions of this Act, shall, together with all interest due thereon, be discharged from time to time by the said commissioners for the reduction of the national debt, in such portions as the said commissioners shall deem fit and expedient, with and out of any monies invested from time to time by the trustees of any savings banks or friendly societies in England or Ireland respectively, and carried to the credit of the said commissioners on account of any such savings banks or friendly societies, or by the sale of any bank annuities, or with and out of the monies or funds commonly called the sinking funds, standing in the names of the said commissioners in the books of the Banks of England or Ireland respectively, or by all or either of such means of repayment, as the said commissioners shall deem most proper and convenient; and immediately upon any such payment being made by the said commissioners for the reduction of the national debt Exchequer bills to the amount of the principal sum so paid off and discharged shall be delivered up to the said commissioners by the Bank of England or Bank of Ireland respectively; and the said commissioners shall forthwith cause the said Exchequer bills to be delivered to the paymasters of Exchequer bills to be cancelled: Provided always, that whenever the principal sum of any such Exchequer bill or bills shall have been discharged and paid off by any sum or sums of money advanced from the sinking fund, and under the provisions of this Act, the said commissioners shall cause their agent or proper officer to transfer from any account standing in the names of the said commissioners in the books of the Bank of England, or from any accounts standing in their names in the books of the Bank of Ireland, under or by virtue of this Act, or of any Act or Acts relating to savings banks or friendly societies, as the case may be, into the account standing in the names of the said commissioners in the books of the Bank of England or Bank of Ireland respectively, under the title of "The Account of the Commissioners "appointed by Act of Parliament for applying certain Sums of Money annually to the "Reduction of the National Debt," such an amount of stock as shall produce, by computation, the principal sum and interest of all such Exchequer bills so paid off and discharged; and the said computations shall be made by the proper officer or officers of the said commissioners, according to the price at which such stock shall have been purchased by the said commissioners on the day of transferring the said amount of stock as aforesaid; and upon every such transfer of stock being made as herein-before directed, the accountant general of the Bank of England or Bank of Ireland respectively shall thereupon transmit to the office of the said commissioners for the reduction of the national debt a certificate of every such transfer, containing the amount and description of stock so transferred.

58. National Debt Commissioners may keep a Balance in the Bank of Ireland to meet Drafts drawn on them by Trustees of Savings Banks in Ireland.—[*Recital*] It shall and may be lawful for the said commissioners, if they shall so think fit, and they are hereby authorized and empowered, to pay into the Bank of England, from time to time, any sum or sums of money to be placed to their credit in account with the Bank of Ireland, on account of the fund for the banks for savings, under such regulations as shall or may be agreed upon from time to time between the said commissioners and the Bank of Ireland; and all sums of money so placed to the said commissioners credit as aforesaid shall be carried to the account of the said commissioners, by the cashiers of the Bank of Ireland, standing in the books of the said bank under the title of "The "Fund for the Banks for Savings," and shall be subject and shall be applied to the several purposes herein-before mentioned, as if every such sum and sums of money had been originally paid into the Bank of Ireland to the said account under the provisions of this Act.

59. Receipts, &c. shall be in the form approved by Commissioners.—All receipts, orders, certificates, endorsements, accounts, returns, or instruments, or other matters or things whatsoever, which shall be required for carrying into execution this Act, shall be made in such form and manner, and containing such particulars, and under such regulations, as shall from time to time be directed or required or approved of by the said commissioners, or their officer or officers.

60. Indemnity to Commissioners, and Banks of England and Ireland.—This Act shall be and the same is declared to be a full and sufficient indemnity and discharge to the commissioners for the reduction of the national debt, and to the Bank of England

and Bank of Ireland respectively, and their officers, for all things to be done or required, or permitted to be done, pursuant to this Act.

61. Commissioners may employ a Barrister, Clerks, &c.—Treasury may pay the Incidental Expenses of the Commissioners.—It shall and may be lawful for the said commissioners for the reduction of the national debt, and they are hereby authorized and empowered, to appoint a barrister at law, and employ such and so many of the clerks and other officers as shall be necessary for carrying into execution the purposes of this Act; and it shall and may be lawful for the Treasury, and they are hereby authorized and empowered, to settle and appoint such allowances as shall be proper for the services, pains, and labour of such clerks or other persons to be appointed and employed by the said commissioners in manner and for the purposes aforesaid; and out of the fund upon which the establishment of the said commissioners is chargeable by any Act now in force, to pay and discharge all such allowances and all other incidental charges which shall necessarily attend the execution of this Act, in such manner as to them shall seem just and reasonable.

[*S.* **62** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

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10 GEORGE 4, 1829.

CHAPTER VII.

The Roman Catholic Relief Act, 1829 (*Short Titles Act*, 1896).

An Act for the Relief of His Majesty's Roman Catholic Subjects.

[13th April 1829.]

Whereas by various Acts of Parliament certain restraints and disabilities are imposed on the Roman Catholic subjects of his Majesty, to which other subjects of his Majesty are not liable: And whereas it is expedient that such restraints and disabilities shall be from henceforth discontinued: And whereas by various Acts certain oaths and certain declarations, commonly called the declaration against transubstantiation, and the declaration against transubstantiation and the invocation of saints and the sacrifice of the mass, as practised in the Church of Rome, are or may be required to be taken, made, and subscribed by the subjects of his Majesty, as qualifications for sitting and voting in Parliament, and for the enjoyment of certain offices, franchises, and civil rights:

[*S.* **1** (*repealing Acts relating to declarations against transubstantiation*) *rep.* 34 *&* 35 *Vict. c.* 48.]

2. Roman Catholics may sit and vote in Parliament.—It shall be lawful for any person professing the Roman Catholic religion, being a peer, or who shall be returned as a member of the House of Commons to sit and vote in either house of Parliament respectively, being in all other respects duly qualified to sit and vote therein . . . .

S. 2 *in part rep.* 34 *&* 35 *Vict. c.* 48.

[*Ss.* **3, 4** *rep.* 34 *&* 35 *Vict. c.* 48.]

5. Roman Catholics may vote at Parliamentary Elections, and may vote for or be elected Representative Peers.—It shall be lawful for persons professing the Roman Catholic religion to vote at elections of members to serve in Parliament for England and for Ireland, and also to vote at the elections of representative peers of Scotland and of Ireland, and to be elected such representative peers, being in all other respects duly qualified . . . . . .

S. 5 *in part rep.* 34 *&* 35 *Vict. c.* 48.

[*Ss.* **6, 7** *rep.* 34 *&* 35 *Vict. c.* 48.]

8. So much of any Acts as require the Formula contained in 8 & 9 Will. 3, c. 3, to be tendered or taken, repealed—Roman Catholics may elect and be elected Members for Scotland.—And whereas in an Act of the Parliament of Scotland made in the eighth and ninth session of the first Parliament of King William the Third, intituled "An Act for the preventing the growth of popery," a certain declaration or formula is therein contained, which it is expedient should no longer be required to be taken and subscribed: Be it therefore enacted, that such parts of any Acts as authorize the said declaration or formula to be tendered, or require the same to be taken, sworn, and subscribed, shall be and the same are hereby repealed, except as to such offices, places, and rights as are herein-after excepted; and that it shall be lawful for persons professing the Roman Catholic religion to elect and be elected members to serve in Parliament for Scotland, and to be enrolled as freeholders in any shire of Scotland, and to be chosen commissioners or delegates for choosing burgesses to serve in Parliament for any districts of burghs in Scotland, being in all other respects duly qualified . . .

S. 8 *in part rep.* 34 *&* 35 *Vict. c.* 48.

9. No Roman Catholic Priest to sit in the House of Commons—Any Person so sitting shall be liable under 41 Geo. 3, c. 63.—No person in holy orders in the Church of Rome shall be capable of being elected to serve in Parliament as a member of the House of Commons; and if any such person shall be elected to serve in Parliament as aforesaid such election shall be void; and if any person, being elected to serve in Parliament as a member of the House of Commons shall, after his election, take or receive holy orders in the Church of Rome, the seat of such person shall immediately become void: and if any such person shall, in any of the cases aforesaid, presume to sit or vote as a member of the House of Commons, he shall be subject to the same penalties, forfeitures, and disabilities as are enacted by an Act passed in the forty-first year of the reign of King George the Third, intituled "An Act to remove doubts respecting the "eligibility of persons in holy orders to sit in the House of Commons;" and proof of the celebration of any religious service by such person, according to the rites of the Church of Rome, shall be deemed and taken to be primâ facie evidence of the fact of such person being in holy orders within the intent and meaning of this Act.

10. Roman Catholics may hold Civil and Military Offices and exercise Franchises with certain exceptions.—It shall be lawful for any of his Majesty's subjects professing the Roman Catholic religion to hold, exercise, and enjoy, all civil and military offices and places of trust or profit under his Majesty, and to exercise any other franchise or civil right, except as herein-after excepted . . . . . .

S. 10 *in part rep.* 34 *&* 35 *Vict. c.* 48.

11. Roman Catholics not exempted from taking any Oaths required from other persons on admissions to Offices.—Provided always, that nothing herein contained shall be construed to exempt any person professing the Roman Catholic religion from the necessity of taking any oath or oaths, or making any declaration, not herein-before mentioned, which are or may be by law required to be taken or subscribed by any person on his admission into any such office or place of trust or profit as aforesaid.

12. This Act not to enable Roman Catholics to hold certain Offices.—Provided also, that nothing herein contained shall extend or be construed to extend to enable any person or persons professing the Roman Catholic religion to hold or exercise the office of guardians and justices of the United Kingdom, or of regent of the United Kingdom, under whatever name, style, or title such office may be constituted; nor to enable any person, otherwise than as he is now by law enabled, to hold or enjoy the office of lord high chancellor, lord keeper or lord commissioner of the great seal of Great Britain or Ireland [1]; or the office of lord lieutenant of Ireland; or his Majesty's high commissioner to the general assembly of the Church of Scotland.

[1] *Virt. rep. as to lord chancellor, lord keeper, and lord commissioner of great seal of Ireland,* 30 *&* 31 *Vict. c.* 75, *s.* 1.

[*S.* **13** *rep.* 54 *&* 55 *Vict. c.* 67 (*S.L.R.*).]

14. Roman Catholics may be Members of Lay Corporations.—It shall be lawful for any of his Majesty's subjects professing the Roman Catholic religion to be a member of any lay body corporate, and to hold any civil office or place of trust or profit therein,

and to do any corporate act, or vote in any corporate election or other proceeding . . . upon taking such oath or oaths as may now by law be required to be taken by any persons becoming members of such lay body corporate, or being admitted to hold any office or place of trust or profit within the same.

S. 14 *in part rep.* 36 & 37 *Vict. c.* 91 (*S.L.R.*).

15. Such Members of Corporations not to vote in Ecclesiastical Appointments.—Provided nevertheless, that nothing herein contained shall extend to authorise or empower any of his Majesty's subjects professing the Roman Catholic religion, and being a member of any lay body corporate, to give any vote at or in any manner to join in the election, presentation, or appointment of any person to any ecclesiastical benefice whatsoever, or any office or place belonging to or connected with the United Church of England and Ireland, or the Church of Scotland, being in the gift, patronage, or disposal of such lay corporate body.

16.[1] This Act not to extend to Offices, &c. in the Established Churches or Ecclesiastical Courts, Universities, Colleges, or Schools; nor to Presentations to Benefices.—Provided also, that nothing in this Act contained shall be construed to enable any persons, otherwise than as they are now by law enabled, to hold, enjoy, or exercise any office, place, or dignity, of, in, or belonging to the United Church of England and Ireland, or the Church of Scotland, or any place or office whatever of, in, or belonging to any of the ecclesiastical courts of judicature of England and Ireland respectively, or any court of appeal from or review of the sentences of such courts, or of, in, or belonging to the commissary court of Edinburgh, or of, in, or belonging to any cathedral or collegiate or ecclesiasticial establishment or foundation; or any office or place whatever of, in, or belonging to any of the universities of this realm; or any office or place whatever, and by whatever name the same may be called, of, in, or belonging to any of the colleges or halls of the said universities, or the colleges of Eton, Westminster, or Winchester, or any college or school within this realm; or to repeal, abrogate, or in any manner to interfere with any local statute, ordinance, or rule, which is or shall be established by competent authority within any university, college, hall, or school, by which Roman Catholics shall be prevented from being admitted thereto, or from residing or taking degrees therein: Provided also, that nothing herein contained shall extend or be construed to extend to enable any person, otherwise than as he is now by law enabled, to exercise any right of presentation to any ecclesiastical benefice whatsoever; or to repeal, vary, or alter in any manner the laws now in force in respect to the right of presentation to any ecclesiastical benefice.

[1] *So much of the Act as relates to any of the Universities of Oxford, Cambridge, and Durham, or any college therein, rep.* 34 & 35 *Vict. c.* 26, *s.* 8.

17. Proviso for Presentations to Benefices connected with Offices held by Roman Catholics.—Provided always, that where any right of presentation to any ecclesiastical benefice shall belong to any office in the gift or appointment of his Majesty, and such office shall be held by a person professing the Roman Catholic religion, the right of presentation shall devolve upon and be exercised by the archbishop of Canterbury for the time being.

18. No Roman Catholic to advise the Crown in the appointment to Offices in the Established Churches.—It shall not be lawful for any person professing the Roman Catholic religion directly or indirectly to advise his Majesty, or any person or persons holding or exercising the office of guardians of the United Kingdom, or of regent of the United Kingdom, under whatever name, style, or title such office may be constituted, or the lord lieutenant of Ireland, touching or concerning the appointment to or disposal of any office or preferment in the United Church of England and Ireland, or in the Church of Scotland; and if any such person shall offend in the premises he shall, being thereof convicted by due course of law, be deemed guilty of a high misdemeanor, and disabled for ever from holding any office, civil or military, under the Crown.

[*Ss.* **19–22** *rep.* 34 & 35 *Vict. c.* 48.]

23. No other Oaths necessary to be taken by Roman Catholics for holding Property other than those required from other Subjects.—No oath or oaths shall be tendered to or required to be taken by his Majesty's subjects professing the Roman

Catholic religion, for enabling them to hold or enjoy any real or personal property other than such as may by law be tendered to and required to be taken by his Majesty's other subjects . . . . . .

S. 23 *in part rep.* 34 & 35 *Vict. c.* 48.

24. Titles to Sees, &c. not to be assumed by Roman Catholics in England or Ireland—Penalty, L.100.—And whereas the Protestant Episcopal Church of England and Ireland, and the doctrine, discipline, and government thereof, and likewise the Protestant Presbyterian Church of Scotland, and the doctrine, discipline, and government thereof, are by the respective Acts of Union of England and Scotland, and of Great Britain and Ireland, established permanently and inviolably: And whereas the right and title of archbishops to their respective provinces, of bishops to their sees, and of deans to their deaneries, as well in England as in Ireland, have been settled and established by law: Be it therefore enacted, that if any person, other than the person thereunto authorized by law, shall assume or use the name, style, or title, of archbishop of any province, bishop of any bishoprick, or dean of any deanery, in England or Ireland, he shall for every such offence forfeit and pay the sum of one hundred pounds.

[*S.* **25** *rep.* 34 & 35 *Vict. c.* 48.]

26. Penalty on Roman Catholic Ecclesiastics officiating or wearing Robes, except in their usual Places of Worship, or in Private Houses.—If any Roman Catholic ecclesiastic, or any member of any of the orders, communities, or societies herein-after mentioned, shall exercise any of the rites or ceremonies of the Roman Catholic religion, or wear the habits of his order, save within the usual places of worship of the Roman Catholic religion, or in private houses, such ecclesiastic or other person shall, being thereof convicted by due course of law, forfeit for every such offence the sum of fifty pounds.

[*S.* **27** *rep.* 53 & 54 *Vict. c.* 33 (*S.L.R.*).]

28. Jesuits and Members of other Religious Orders of the Church of Rome now in the kingdom to sign and deliver to Clerk of the Peace a Notice in the form in the Schedule.—And whereas Jesuits, and members of other religious orders, communities, or societies of the Church of Rome, bound by monastic or religious vows, are resident within the United Kingdom; and it is expedient to make provision for the gradual suppression and final prohibition of the same therein: Be it therefore enacted, that every Jesuit, and every member of any other religious order, community, or society of the Church of Rome, bound by monastic or religious vows, who at the time of the commencement of this Act shall be within the United Kingdom, shall within six calendar months after the commencement of this Act deliver to the clerk of the peace of the county or place where such person shall reside, or to his deputy, a notice or statement in the form and containing the particulars required to be set forth in the schedule to this Act annexed; which notice or statement such clerk of the peace, or his deputy, shall preserve and register amongst the records of such county or place, without any fee, and shall forthwith transmit a copy of such notice or statement to the chief secretary of the lord lieutenant, if such person shall reside in Ireland, or if in Great Britain, to one of his Majesty's principal secretaries of state; and in case any person shall offend in the premises, he shall forfeit and pay to his Majesty, for every calendar month during which he shall remain in the United Kingdom without having delivered such notice or statement as is herein-before required, the sum of fifty pounds.

29. Jesuits, &c. coming into the realm to be banished.—If any Jesuit, or member of any such religious order, community, or society as aforesaid, shall, after the commencement of this Act, come into this realm, he shall be deemed and taken to be guilty of a misdemeanor, and, being thereof lawfully convicted, shall be sentenced and ordered to be banished from the United Kingdom for the term of his natural life.

30. Natural-born Subjects being Jesuits may return into the Kingdom and be registered.—Provided always, that in case any natural-born subject of this realm being at the time of the commencement of this Act a Jesuit, or other member of any such religious order, community, or society as aforesaid, shall, at the time of the commencement of this Act, be out of the realm, it shall be lawful for such person to return or to come into this realm; and upon such his return or coming into the realm he is hereby

required, within the space of six calendar months after his first returning or coming into the United Kingdom, to deliver such notice or statement to the clerk of the peace of the county or place where he shall reside, or his deputy, for the purpose of being so registered and transmitted, as herein-before directed; and in case any such person shall neglect or refuse so to do, he shall for such offence forfeit and pay to his Majesty, for every calendar month during which he shall remain in the United Kingdom without having delivered such notice or statement, the sum of fifty pounds.

31. The Principal Secretaries of State may grant Licences to Jesuits, &c. to come into the kingdom; and may revoke the same.—Provided also, that notwithstanding any thing herein-before contained it shall be lawful for any one of his Majesty's principal secretaries of state, being a Protestant, by a licence in writing signed by him, to grant permission to any Jesuit, or member of any such religious order, community, or society as aforesaid, to come into the United Kingdom, and to remain therein for such period as the said secretary of state shall think proper, not exceeding in any case the space of six calendar months; and it shall also be lawful for any of his Majesty's principal secretaries of state to revoke any licence so granted before the expiration of the time mentioned therein, if he shall so think fit; and if any such person to whom such licence shall have been granted shall not depart from the United Kingdom within twenty days after the expiration of the time mentioned in such licence, or, if such licence shall have been revoked, then within twenty days after notice of such revocation shall have been given to him, every person so offending shall be deemed guilty of a misdemeanor, and, being thereof lawfully convicted, shall be sentenced and ordered to be banished from the United Kingdom for the term of his natural life.

32. Accounts of Licences to be laid before Parliament.—There shall annually be laid before both Houses of Parliament an account of all such licences as shall have been granted for the purpose herein-before mentioned within the twelve months then next preceding.

33. Admitting persons as Members of such Religious Orders deemed a misdemeanor.—In case any Jesuit, or member of any such religious order, community, or society as aforesaid, shall, after the commencement of this Act, within any part of the United Kingdom, admit any person to become a regular ecclesiastic, or brother or member of any such religious order, community, or society, or be aiding or consenting thereto, or shall administer or cause to be administered, or be aiding or assisting in the administering or taking, any oath, vow, or engagement purporting or intended to bind the person taking the same to the rules, ordinances, or ceremonies of such religious order, community, or society, every person offending in the premises in England or Ireland shall be deemed guilty of a misdemeanor, and in Scotland shall be punished by fine and imprisonment.

34. Any person so admitted a Member of a Religious Order to be banished.—In case any person shall, after the commencement of this Act, within any part of this United Kingdom, be admitted or become a Jesuit, or brother or member of any other such religious order, community, or society as aforesaid, such person shall be deemed and taken to be guilty of a misdemeanor, and being thereof lawfully convicted shall be sentenced and ordered to be banished from the United Kingdom for the term of his natural life.

35. Persons not departing may be removed.—In case any person sentenced and ordered to be banished under the provisions of this Act shall not depart from the United Kingdom within thirty days after the pronouncing of such sentence and order, it shall be lawful for his Majesty to cause such person to be conveyed to such place out of the United Kingdom as his Majesty, by the advice of his privy council, shall direct.

36. And if at large after three months, may be transported for Life.—If any offender, who shall be so sentenced and ordered to be banished in manner aforesaid, shall, after the end of three calendar months from the time such sentence and order hath been pronounced, be at large within any part of the United Kingdom, without some lawful cause, every such offender being so at large as aforesaid, on being thereof lawfully convicted, shall be transported to such place as shall be appointed by his Majesty, for the term of his natural life.

37. Not to extend to Female Societies.—Provided always, that nothing herein contained shall extend or be construed to extend in any manner to affect any religious order, community, or establishment consisting of females bound by religious or monastic vows.

38. Penalties how to be recovered.—All penalties imposed by this Act shall and may be recovered as a debt due to his Majesty, by information to be filed in the name of his Majesty's attorney general for England or for Ireland, as the case may be, in the courts of Exchequer in England or Ireland respectively, or in the name of his Majesty's advocate general in the Court of Exchequer in Scotland.

[*Ss.* **39, 40** *rep.* 34 *&* 35 *Vict. c.* 48.]

SCHEDULE to which this Act refers.

Date of the Registry.	Name of the Party.	Age.	Place of Birth.	Name of the Order, Community, or Society whereof he is a Member.	Name and usual Residence of the next immediate Superior of the Order, Community, or Society.	Usual Place of Residence of the Party.

CHAPTER XIX.

The Register of Sasines Act, 1829 (*Short Titles Act*, 1896).

An Act to explain and amend an Act of the Parliament of Scotland, intituled "An Act concerning the Registration of Seisins and Reversions of Tenements within Burgh." [14th May 1829.]

[*Preamble recites* 1681, *c.* 13.]

1. Abbreviations heretofore made in Docquets not to invalidate Seisins.—With regard to any instruments of seisin of tenements within burgh, recorded prior to the passing of this Act, in which the docquets thereto subjoined may have been inserted in such registers in an abbreviated or incomplete form, or altogether omitted, as heretofore in various instances practised, such practice shall not be held to affect the sufficiency of such instruments, or be the ground of any challenge in law or exception to the validity of the rights of parties depending on such seisins.

2. After the passing of this Act, Docquets of Seisins to be engrossed in Registers at length.—In all time coming after the passing of this Act the keepers of the registers of seisins within burgh in Scotland shall engross in their registers at length the notorial docquets subjoined to all instruments of seisin of tenements within burgh respectively, otherwise such seisins shall make no faith in judgment, by way of action or exception, in prejudice of a third party who hath acquired a perfect and lawful right to such tenements; but without prejudice to the using of such instruments against the parties, makers thereof, their heirs or successors.

[*S.* **3** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

CHAPTER XXIV.

THE GOVERNMENT ANNUITIES ACT, 1829 (*Short Titles Act*, 1896).

AN ACT to enable the Commissioners for the Reduction of the National Debt to grant Life Annuities and Annuities for Terms of Years.[1]

[22d May 1829.]

[1] *So much of this Act as relates to granting certificates of the existence of nominees, and to the making certain affidavits and solemn affirmations by persons desirous of purchasing life annuities, in cases where proof of the age and identity of nominees has been before produced to the commissioners for the reduction of the national debt, certified and verified according to the provisions of this Act, and as relates to affidavits and solemn affirmations in cases where the nominee shall not appear personally before the officers of the said commissioners, to enable such persons to receive the half-yearly payments from time to time of every such life annuity, and also for receiving the one-fourth part of any expired life annuity which shall be claimed under the provisions of this Act, and as relates to the paying and transferring such annuities at the Bank of England, rep. 2 & 3 Will. 4, c. 59, s. 4.*

[*Preamble.*]

1. COMMISSIONERS FOR REDUCTION OF NATIONAL DEBT MAY ACCEPT TRANSFERS OF STOCK, OR RECEIVE MONEY FOR THE PURCHASE OF ANNUITIES FOR LIFE, IMMEDIATE OR DEFERRED, OR FOR TERMS OF YEARS.—It shall be lawful for the commissioners for the reduction of the national debt, at such days and times as they shall from time to time appoint by notice in the London Gazette for that purpose, to accept and receive from any person or persons whomsoever the transfer of any bank annuities or long annuities transferable at the Bank of England, or to receive any sum or sums of money, as the consideration for the purchase of life annuities, or of annuities for a certain limited term of years, to be chargeable and charged upon and to be payable out of the consolidated fund of the United Kingdom; and to sell and grant annuities, either on the continuance of single lives, or on the continuance of two lives and the life of the longest liver of them, or upon the joint continuance of two joint lives, such annuities to commence respectively either immediately or at a period to be fixed at the time of granting any annuity; and also to sell and grant deferred annuities upon the continuance of a single life or joint lives; and also to sell and grant annuities, to continue for any certain limited term of years, to commence either immediately or on any day to be named at the time of granting any such annuity; and also to sell and grant, generally, any immediate annuities, or any temporary annuities, or any deferred annuities, of whatsoever kind or denomination (save and except that no deferred annuities shall be granted for any certain limited term of years to commence from and after the death of any nominee), as are allowed by this Act, in the manner and under the limitations and restrictions and regulations herein-after expressed.

2. ANNUITIES NOT TO BE GRANTED ON THE LIFE OF ANY NOMINEE UNDER 15 YEARS OF AGE; NOR IN ANY OTHER CASE WHERE THE COMMISSIONERS, &C. MAY THINK FIT TO DECLINE.—Provided always, that no annuity or annuities shall be sold or granted by the said commissioners upon the life of any nominee under the provisions of this Act, who, on the day when the contract for such annuity or annuities shall be made, shall be under the age of fifteen years: Provided also, that it shall be lawful for the said commissioners, or the comptroller general or assistant comptroller acting under the said commissioners, to decline or refuse to sell and grant any annuity under the provisions of this Act, in such cases where there shall be, in the opinion of the said commissioners, or of the said comptroller general or assistant comptroller, sufficient grounds for refusing or declining so to do.

3. ANNUITIES MAY BE PURCHASED BY THE TRANSFER OF NOT LESS THAN L.100 STOCK, &C.; AT RATES SPECIFIED IN TABLES TO BE APPROVED BY THE TREASURY; OR BY PAYMENT OF NOT LESS THAN L.5 A YEAR, &C. FOR DEFERRED ANNUITIES—ALL BANK ANNUITIES SO TRANSFERRED, &C. SHALL BE CANCELLED—GRANTEES OF ANNUITIES SHALL SIGNIFY THEIR ACCEPTANCE, IF REQUIRED.—It shall and may be lawful for the said commissioners for the reduction of the national debt, and they are hereby authorized and empowered, to accept and receive any amount, not less than one hundred pounds, of any bank annuities, or to accept and receive any sum of money or any amount of long annuities, equal in value to not less than one hundred pounds of three per cent. bank annuities, according to the average price of such annuities, to be ascertained in manner herein-after directed,

from any person or persons desirous of purchasing any annuity or annuities for lives or years of whatsoever kind, under the regulations of this Act, at and according to such rates as shall be specified in any table or tables which shall be from time to time approved by the Treasury; and it shall also be lawful for the said commissioners for the reduction of the national debt to accept and receive from any person or persons any sum of money by the year, at such time or times in each and every year as the said commissioners shall appoint, amounting to five pounds or upwards, in money, for the purpose of enabling the person or persons making such payment or transfer to purchase any of the before-mentioned deferred annuities for lives, under the provisions of this Act, according to such regulations as the said commissioners for the reduction of the national debt shall direct and approve; and all bank annuities and long annuities which shall be so transferred, and also all bank annuities which shall be purchased with any sums of money so paid, shall from time to time be carried to the account of the said commissioners for the reduction of the national debt, and shall then be cancelled, and all interest or dividends on such annuities respectively shall cease to be charged upon or to be issued out of the consolidated fund from and after the day upon which any such annuities respectively shall be transferred to and placed in the names of the said commissioners: Provided always, that the several persons by whom any annuities for lives or years of whatsoever kind shall be purchased, or to whom any such annuities shall be assigned and transferred under the provisions of this Act, shall (if the governor and company of the said bank shall require the same) respectively underwrite his, her, or their acceptance thereof in the books of the said governor and company, by himself or herself, or by some other person or persons duly authorized on his, her, or their behalf.

4. PURCHASERS OF ANNUITIES MAY APPOINT NOMINEES, BEING NATIVES OF AND RESIDENT IN THE UNITED KINGDOM—PERSONS NOT NATIVES AND NOT RESIDENT MAY PURCHASE ANNUITIES ON THEIR OWN LIVES.—Whenever any person shall be desirous of purchasing, under the provisions of this Act, any life annuity of whatsoever kind, it shall be lawful for the person or persons so desiring to purchase such annuity to name and appoint any other person or persons, being of the age of fifteen years or upwards at the time of such nomination, and being a native or natives of, and most usually resident within, the United Kingdom of Great Britain and Ireland, on the continuance of whose life such annuity shall depend: Provided always, that nothing herein contained shall be construed to prevent any person, whether a native or not of the United Kingdom, or not residing in the United Kingdom, from purchasing any life annuity of whatsoever kind under this Act, to depend upon the continuance of the life of himself, herself, or themselves, as the nominee or nominees of such annuity.

5. PREVIOUSLY TO TRANSFER OF STOCK OR PAYMENT OF MONEY FOR LIFE ANNUITY, PARTIES SHALL SIGN DECLARATION, AND PRODUCE CERTIFICATES OF AGE OF NOMINEES OF LIFE ANNUITIES.—Before any bank annuities or long annuities shall be transferred, or any money shall be paid to the commissioners for the reduction of the national debt, for the purchase of any life annuity under the provisions of this Act, a declaration in such form as shall from time to time be directed or authorized by the said commissioners, or by the comptroller general or assistant comptroller acting under the said commissioners, shall be signed by the person or one of the persons desirous of purchasing such annuity, or by some person on his, her, or their behalf, stating the name of the person by whom or on whose behalf such annuity shall be purchased, and the name or names of the person or persons on whose life or lives such annuity is required to be granted, with such other particulars as the said commissioners, or the said comptroller general or assistant comptroller, shall from time to time direct, and such declaration shall be delivered to the said comptroller general or assistant comptroller or other officer acting under the said commissioners; and there shall also be produced to the said officer a copy of the register of the birth or baptism of the person desiring to purchase such annuity on his own life, or of any and every nominee on whose life or lives any such annuity shall be purchased, certified as true, under the hand of the minister of the parish or place where such register shall be kept, or in the absence of the minister, then a copy of such register, together with a certificate of the truth thereof (wherein such absence shall be specified,) under the hands of the churchwardens or chapelwardens, or overseers, of such parish or place, or any two of them, and every such certificate, whether of the minister, or churchwardens or chapelwardens, or overseers, shall be attested by two or more credible witnesses; and to such certificate there shall also be annexed an

affidavit of the said witnesses, or one of them, or their, his, or her solemn affirmation, (in case they or either of them shall be of the persuasion called Quakers,) to be made before any justice of the peace or magistrate in the United Kingdom of Great Britain and Ireland, or before the comptroller general or assistant comptroller, or other officer or officers appointed by the said commissioners for that purpose, (and which oath or affirmation such justice or magistrate, or comptroller general, assistant comptroller, or other officer, is hereby authorized and empowered to administer,) that such witness or witnesses did examine and compare the said copy of the register of birth or baptism with the register thereof, and did see such minister, or churchwardens or chapelwardens, or overseers, (as the case may be,) sign the said certificate, and that the names of such witnesses are of their own proper handwriting, and to every such certificate shall also be annexed an affidavit or solemn affirmation made by the purchaser of the said annuity, (or by one of the purchasers in case there shall be two or more,) or by some person on his, her, or their behalf, before any justice of the peace or magistrate in the United Kingdom of Great Britain and Ireland, or before such comptroller general or assistant comptroller, or other officer or officers of the said commissioners, that the person named and described in the copy or certificate of the register of birth or baptism produced to the said officer is the same person who is appointed to be such nominee.

6. If day of Birth not named in Certificate, Age shall be calculated from the day of Baptism.—Provided always, that in all cases where any copy or certificate of any register, which shall be produced pursuant to this Act, shall purport to be a copy or certificate of the register of the baptism only, and not of the birth of any person, the age of such person shall, for the purposes of this Act, be calculated from the date of such baptism, and the amount of the annuity to be purchased on the life of the person named in any such copy or certificate shall be estimated and ascertained in like manner in all respects as if such person had been born on the day expressed in such copy or certificate to be the date of his or her baptism.

7. Proof of Age of Nominee in certain cases.—Provided also, that in case any person by whom or on whose behalf any annuity shall be purchased on his or her own life shall not be a native of the United Kingdom of Great Britain and Ireland, or in case the birth or baptism of any nominee whatever, whether such person shall be his own nominee or not, (being a native of the United Kingdom,) shall not appear in the register of the parish where such nominee shall have been born or baptized, then and in every such case there shall be produced to the said comptroller general or assistant comptroller, or other officer of the said commissioners, (in lieu of such certificates and affidavits as aforesaid,) an affidavit or solemn affirmation, in writing, of the age of such nominee, together with his or her name, surname, addition, and employment or occupation (if any), and usual place of abode, and also the place of his or her birth, and the names of his or her parents or reputed parents, also stating that the person named and described in such affidavit or affirmation is the person on whose life such annuity is intended to be purchased; and such affidavit or affirmation shall be made either by the person or one of the persons by whom or on whose behalf such annuity shall be purchased, or by such nominee, or by some other person having knowledge of the several circumstances before mentioned, in which latter case the said affidavit or affirmation shall also be accompanied by an affidavit or affirmation to be made by the person or one of the persons by whom or on whose behalf such annuity shall be purchased, that the contents of such last-mentioned affidavit are true to the best of his or her knowledge and belief; and such affidavits or affirmations respectively shall and may be taken before any justice of the peace or magistrate in the United Kingdom of Great Britain and Ireland, or before the said comptroller general or assistant comptroller, or other officer or officers of the said commissioners; and if any such person or nominee shall be a native of the United Kingdom of Great Britain and Ireland, then in such affidavit shall also be stated the cause why a certificate of the copy of the register of his or her birth or baptism cannot be produced.

8. Purchaser of an Annuity for years to sign a Declaration approved by the Commissioners.—Provided also, that in cases where any annuity for a certain limited term of years is intended to be purchased under the provisions of this Act, it shall be sufficient for that purpose for the purchaser, or for some person on his, her, or their behalf, to sign and produce a declaration to such officer of such his intention, in such form as the said commissioners, or the said comptroller general or assistant comptroller, shall from time to time approve.

9. Average Prices of Stocks to be daily made out and transmitted to Comptroller General of the National Debt Commissioners.—The cashier or cashiers of the Bank of England shall and they are hereby required to cause an account to be made out, on every day on which any bank annuities or long annuities shall have been bought at the Bank of England, of the average price at which all or any bank annuities or long annuities shall have been bought on such day; and such account shall be transmitted to the comptroller general or assistant comptroller of the commissioners for the reduction of the national debt, for the purpose of enabling him to ascertain and certify, in manner herein-after directed, the respective amounts of the life annuities which may be purchased under the provisions of this Act; and a copy thereof shall be put up in some conspicuous place of his office, in order that the same may be seen by all persons desirous of ascertaining the price at which stock may be transferred, and the price at which money may be laid out for the purchase of any annuities under the provisions of this Act.

10. When it shall appear to the Comptroller General that the Declaration, &c. made are conformable to this Act, he may ascertain the amount of the Annuity to be purchased by the Stock or Money to be transferred, and grant a Certificate thereof; upon production of which at the Bank, and on transfer of the Stock or payment of the Money, the Party shall receive an Acquittance.—Whenever it shall appear to the said comptroller general or assistant comptroller, or any other officer acting under the said commissioners, that the certificates and affidavits and declarations produced by the proposed purchaser of any annuity as aforesaid are conformable to the directions of this Act, such officer shall thereupon ascertain the amount of the annuity for life or lives or years, to be payable in respect of the bank annuities or long annuities proposed to be transferred, or in respect of the sum of money proposed to be paid for the purchase of any such annuities respectively; and the amount of such respective annuities for lives or years shall in all cases be calculated and checked by the actuary and accountant, or other check officer, of the check branch in the office of the said commissioners; and thereupon such comptroller general or assistant comptroller or other officer, shall grant his certificate to the party making such purchase, and shall transmit a duplicate thereof to the Bank of England; and upon the production and delivery of the original certificate at the bank, and upon the transfer to the said commissioners of such bank annuities or long annuities, or upon the payment to them of such sum of money as aforesaid, as the consideration for the purchase of the annuity required to be granted, a certificate or receipt shall be given by one of the cashiers of the said bank to the party on whose behalf such transfer or payment shall be made, and such receipt shall be an acquittance or discharge for the bank annuities or long annuities so transferred, or for the money so paid: Provided always, that no certificate for enabling the transfer of any bank annuities, or for the payment of money in lieu thereof, for the purchase of any annuities to be granted under the provisions of this Act, shall be or continue valid to authorize such payment or transfer being made after the expiration of five days from the date of such certificate.

11. If bargains are made in Stock bearing more than Three per cent. Interest, or in long Annuities, or Money, such Stock, &c. shall be converted into Three per Cents., and the Annuity, &c. ascertained accordingly.—It shall and may be lawful for any person desirous of purchasing any annuity for lives or years, of whatsoever kind, under this Act, to transfer to the commissioners for the reduction of the national debt any bank annuities carrying a higher rate of interest than three pounds per centum per annum; and whenever any such bank annuities or any long annuities shall be so transferred, and whenever any sum of money shall be paid for the purchase of any annuity for lives or years under this Act, such bank annuities carrying a higher rate of interest than three pounds per centum per annum, and such long annuities, and such sum of money respectively, shall be first converted, by the computation of the proper officer acting under the said commissioners for the reduction of the national debt, into three pounds per centum consolidated or reduced bank annuities, (at the option of the purchaser), according to the average price of three pounds per centum annuities, to be ascertained as directed by this Act, and the annuity or annuities to be granted in respect of the consideration of such purchase shall be calculated and ascertained upon the amount of three pounds per centum annuities, (excluding the fractional parts of a pound of such last-mentioned three pounds per centum annuities, if any,) produced by

such conversion; and whenever any sum of money shall be so paid, a charge of two shillings and sixpence shall be made upon the purchaser of such annuity for life or years for every entire one hundred pounds of three pounds per centum annuities produced by the conversion of such money into such three pounds per centum annuities as aforesaid.

12. FUTURE BANK ANNUITIES, &c., MAY BE TRANSFERRED FOR THE PURPOSES OF THIS ACT.—Any bank annuities, and any annuities for a certain term of years, which may at any time be created by this Act, or by any future Act or Acts, shall be transferrable and may be transferred to the commissioners for the reduction of the national debt, for the purchase of any annuities of whatsoever kind, under the provisions of this Act, in like manner in all respects as any bank annuities, or annuities for a certain term of years, existing at the time of the passing of this Act, and shall be subject to all the rules, regulations, and provisions, in this Act contained.

13. MONEY FOR THE PURCHASE OF ANNUITIES SHALL BE PAID INTO THE BANK TO ACCOUNT OF COMMISSIONERS FOR THE REDUCTION OF THE NATIONAL DEBT, AND BE LAID OUT IN STOCK TO BE CANCELLED.—In all cases where any sum of money shall be the consideration for any annuity for lives or years, of whatsoever kind, to be granted under the provisions of this Act, such sum of money shall be paid by or on behalf of the purchaser or purchasers of such annuity into the Bank of England, under a certificate of the proper officer of the commissioners for the reduction of the national debt; and upon the production of such certificate, the cashier or cashiers of the said bank shall and he and they is and are hereby required to receive all such monies, and to place the same to the account of the said commissioners; and all such monies shall be laid out on behalf of the said commissioners in the purchase of bank annuities, as the said commissioners shall from time to time direct; and all such bank annuities shall from time to time be cancelled as herein-before directed: Provided always, that all monies paid to the said commissioners for the purchase of life annuities shall be carried to their account, standing in the books of the said bank, under any Acts heretofore in force enabling the said commissioners to grant life annuities; and all monies paid to the said commissioners for the purchase of annuities for terms of years shall be carried to a distinct and separate account in the books of the said bank.

14. TREASURY SHALL DIRECT THE USE OF TABLES OF THE VALUE OF ANNUITIES AS APPROVED BY THEM.—For the better carrying this Act into execution it shall and may be lawful for the Treasury, from time to time, as they shall think fit, to direct the commissioners for the reduction of the national debt to use and adopt such tables as shall, from time to time, be authorized and approved of by the Treasury, for ascertaining the values of annuities depending on the continuance of single lives, and on the continuance of two lives and the life of the longest liver of them, and on the joint continuance of two joint lives; and also such tables of the values of deferred annuities on single or joint lives; and also such tables of the values of annuities, for a certain limited term of years, immediate or deferred, as may be granted according to the provisions of this Act; and such respective tables shall be valid and effectual for the purposes of this Act; and all annuities for lives or years, of whatsoever kind, to be purchased under the provisions of this Act, shall be purchased according to the values stated in such tables respectively, so long as the same shall remain in force; and it shall be lawful for the Treasury to alter, revoke, and recall, all or any such tables from time to time, and to direct the use and adoption of such other tables in lieu thereof as shall be approved of by the Treasury: Provided always, that the said commissioners for the reduction of the national debt shall, previous to the adoption and using of any such tables respectively, give notice, from time to time, in the London Gazette, in such form and manner as to the said commissioners for the reduction of the national debt shall seem fit and proper, that such tables have been authorized and approved by the Treasury.

15. PURCHASERS SHALL BE ENTITLED TO ANNUITIES CALCULATED ACCORDING TO SUCH TABLES.—In every case where any bank annuities or long annuities shall be transferred, or any sum of money shall be paid as the consideration for the purchase of any annuity for lives or years, of whatsoever kind, under the provisions of this Act, the person or persons purchasing any such annuity for lives or years, upon the transfer of such bank annuities or long annuities, or upon the payment of such sum of money to the said commissioners, shall, for every one hundred pounds of such three per centum bank annuities, or for every sum of long annuities, or for every sum of money paid, equal to the value of such one hundred pounds of such three per centum annuities, and so in proportion for

any greater sum, be entitled to receive (during the continuance of the single life of the nominee, or during the lives of the two nominees and the life of the longest liver of them, or during the joint continuance of the lives of the two joint nominees, or during the continuance of the single or joint lives in cases of deferred life annuities, or during the term of years, immediate or deferred, for which any annuity shall be granted under this Act,) an annuity for a life or lives, or for terms of years, as the case may be, of such annual amount as shall be specified in any such table or tables respectively, as the Treasury shall from time to time authorize and approve in manner herein-before directed, to be calculated and ascertained according to the age of the nominee or nominees, or the continuance of the term of years respectively, as the case may be, and according to the average price (to be ascertained as is herein-before directed) of three pounds per centum consolidated or reduced bank annuities on the day preceding the day of granting the said certificate to the party purchasing any such annuity for a life or lives, or for a term of years as aforesaid: Provided always, that whenever it shall happen that no sale of any bank annuities shall have been made, so as to enable such average price to be ascertained on each and every day, in manner herein-before required, then such calculation shall be made according to the average price on the nearest day preceding the date of the certificate to be granted by such officer.

16. Preventing Fractions.—It shall not be lawful for any person to transfer, for the purchase of any annuity under the provisions of this Act, any less sum than one hundred pounds of any bank annuities, . . . except in cases expressly provided for by this Act; and in every case where the calculation of the amount of any annuity, according to the provisions of this Act, shall produce a fraction less than sixpence,[1] the fractional part of the said annuity less than sixpence,[1] shall be taken from the amount thereof, and shall not be inserted in the certificate to be granted by the officer of the said commissioners for the reduction of the national debt, nor shall be payable at the Bank of England.

[1] *S.* 16 *in part rep., and "fourpence" substituted for "sixpence,"* 51 *&* 52 *Vict. c.* 15, *s.* 2.

17. Life Annuities granted under this Act shall be added to former Annuities for Lives: and Annuities for Years shall be carried to a separate Account.—All life annuities of whatsoever kind, which shall be purchased and granted under the provisions of this Act, (whether such life annuities shall commence immediately or not,) shall in their due course, as the same shall fall due and become payable, be added to and shall form part of the life annuities payable at the Bank of England under any Act or Acts heretofore in force enabling the said commissioners to grant life annuities; and all annuities for terms of years which shall be purchased and granted under this Act shall be carried to a separate account in the books of the Bank of England, and the books of the commissioners for the reduction of the national debt, under the title of "Annuities "for Terms of Years granted by the Commissioners for the Reduction of the National "Debt, pursuant to Act of the Tenth of George the Fourth;" and the said annuities for terms of years shall be comprehended in one general account, notwithstanding the said annuities shall continue for various terms of years.

18. Purchasers of Life Annuities may make further Purchases on Lives of original Nominees without fresh Certificates of their Age.—Whenever any person shall have purchased any annuity for the life or lives of any nominee or nominees under the provisions of any Act heretofore in force, by which the said commissioners were empowered to grant life annuities, or under the provisions of this Act, and such person shall be afterwards desirous of purchasing any further annuity or annuities on the life or lives of the same nominee or nominees, (whether such life annuities shall have been originally contracted for to commence immediately or not,) the original proofs of the age of such nominee or nominees, produced at the time of the purchase of the first annuity, shall be deemed sufficient to authorize the proper officer of the said commissioners, and such officer is hereby required, from time to time, to grant to the person applying to him for that purpose all or any such certificate or certificates as by this Act are directed or required, for the purpose of enabling such persons to transfer any bank annuities or long annuities, or for the payment of any sum of money, for the purchase of such further life annuity or annuities, without the production of any fresh certificates or affidavits in regard to the birth or baptism or other particulars respecting such nominee or nominees; and the certificates so to be granted by such officer shall be valid and effectual to enable

every such person to transfer any bank annuities or long annuities, or to make payments of any sum of money, for the purchase of such further life annuity or annuities, and to entitle every such person to such certificates and receipts from the cashier of the Bank of England, in like manner as if the certificate of such officer had been granted upon the production of the original certificates and affidavits.

19. Any persons may purchase Life Annuities on Lives of Nominees already certified without fresh Certificates of Age, on proof of Identity.—[*Recital*] It shall and may be lawful for any person or persons to purchase in all cases any of the aforesaid annuity or annuities, of whatsoever kind, under the provisions of this Act, upon the life or lives of any one or more nominee or nominees, either singly or jointly, whose age shall have been certified and verified under the provisions of this Act, or of any Act heretofore in force as aforesaid, without the production of any new or additional certificate or certificates of the age or ages of such nominee or nominees: Provided always, that in every such case an affidavit or solemn affirmation as to the identity of such nominee or nominees shall be made by the purchaser of any such annuity, or by some person on behalf of such purchaser, before such and the like persons as are specified and required in and by this Act, in cases wherein copies of the register of the birth or baptism of any nominee or nominees is or are required to be produced under the provisions of this Act.

20. Persons appointed by Commissioners shall accept Stock transferred by Purchasers of Annuities—Annuities purchased under this Act and former Acts chargeable on Consolidated Fund.—It shall be lawful for any person or persons who shall from time to time be nominated and appointed by the said commissioners for the reduction of the national debt under this Act, or who shall have been appointed by them under any Act heretofore in force, to accept any transfer of stock made to the said commissioners under the provisions of this Act, and such person or persons are hereby authorized and empowered to accept the transfer of any bank annuities or long annuities which shall be transferred to the said commissioners for the purchase of any annuities for life or years of whatsoever kind under the provisions of this Act; and all annuities for lives or years of whatsoever kind which shall be purchased under the authority of this Act, or which shall have been purchased under any Act or Acts heretofore in force enabling the said commissioners to grant life annuities, . . . shall be charged and chargeable, and the same are hereby made chargeable, upon the consolidated fund of the United Kingdom, and shall be paid and payable at the Bank of England in manner directed by this Act.

S. 20 *in part rep.* 51 *&* 52 *Vict. c.* 57 (*S.L.R.*).

21. Amount of Annuities from time to time payable shall be certified to the Treasury, who shall issue their Warrant to the Bank for payment thereof out of the Consolidated Fund.—For the purpose of ascertaining from time to time the amount of annuities for lives or for terms of years, payable under the authority of this Act or any Acts heretofore in force enabling the commissioners for the reduction of the national debt to grant life annuities, the comptroller general or assistant comptroller acting under the said commissioners shall, within fourteen days next preceding the fifth day of July, the tenth day of October, the fifth day of January, and the fifth day of April in each and every year, after deducting all expired and unclaimed annuities for lives or years which shall have previously ceased and determined, certify to the Treasury the amount of annuities for lives and of annuities for terms of years, the half-yearly payments of which shall from time to time be chargeable upon the said consolidated fund on each of such days respectively; and the Treasury shall thereupon order and direct, by warrant, the sums specified from time to time in every such certificate to be issued and paid out of the said consolidated fund from time to time to the Bank of England, to be by them placed to the account of the said commissioners for the reduction of the national debt, for the purpose of paying all such annuities respectively.

22. Time of Half-yearly Payment of all Annuities granted under this Act—Additional Quarterly Payment on death of Nominee of Life Annuities—Proviso as to deferred Annuities.—All annuities for lives or years of whatsoever kind, which shall be purchased under the provisions of this Act, shall be payable at the Bank of England by two equal half-yearly payments, to be respectively made on the fifth day of January and on the fifth day of July, or on the fifth day of April and the tenth day of

October, in each and every year, according to the respective periods, as herein-after mentioned, within which any bank annuities or long annuities shall be transferred, or any money shall be paid for the purchase of any such annuities for life or years of whatsoever kind respectively; and the first half-yearly payment of every such annuity so purchased shall be made at the times following, (that is to say,) on the fifth day of January in respect of all purchases completed by the transfer of bank annuities or long annuities, or payment of money, at any time during the quarter ending on the tenth day of October preceding such fifth day of January; on the fifth day of April in respect of all such purchases completed at any time during the quarter ending on the fifth day of January preceding such fifth day of April; on the fifth day of July in respect of all such purchases completed at any time during the quarter ending on the fifth day of April preceding such fifth day of July; and on the tenth day of October in respect of all such purchases completed at any time during the quarter ending on the fifth day of July preceding such tenth day of October; and all future half-yearly payments of every such annuity shall be made with reference to the time of such first half-yearly payment: Provided always, that upon the death of any single nominee, or of the survivor of any two joint nominees in respect of any life annuity, or upon the death of either of the two joint nominees, in case the annuity shall have depended upon the joint continuance of the lives of two joint nominees, a sum equal to one fourth part of the annuity depending upon the life of such single or surviving nominee, or such two joint nominees, (over and above all half-yearly arrears thereof respectively,) shall be payable to the person or persons entitled to such annuity, or his, her, or their executors, administrators, or assigns (as the case may be), on the half-yearly day of payment next succeeding the death of such nominee; provided that such last-mentioned payment shall be claimed within two years after the death of such single or surviving nominee, or after the death of either of such two joint nominees, but not otherwise: Provided also, that the fourth part of any expired life annuity payable under the provisions of this Act shall not be payable nor be paid upon or in respect of any deferred or reversionary life annuity, unless one half-yearly payment of such deferred life annuity shall have been actually paid or become due at the time of the decease of such nominee.

23. Bargains for Annuities not to be made within 14 days after any quarterly day of payment.—For the space of fourteen days next after any of the said quarterly days for payment of the said annuities respectively, no bargain or contract shall be made by or on behalf of the said commissioners for the reduction of the national debt for the grant or purchase of any annuity under this Act; any thing herein-before contained to the contrary in anywise notwithstanding.

Ss. 22 *and* 23 *are rep. as to annuities granted under this Act, after the* 28*th June* 1888, 51 & 52 *Vict. c.* 15, *s.* 2.

24. Before every Half-yearly Payment of any Life Annuity, Certificate of Life of Nominee shall be produced—Proviso as to Annuities on Life of Survivor of two Nominees, or on Joint Lives.—And for preventing frauds in the receipt of life annuities, be it further enacted, that before any half yearly payment of any life annuity shall be receivable at the Bank of England, (except in cases hereafter specially provided for,) there shall be produced to the proper officer of the commissioners for the reduction of the national debt a certificate that the nominee upon whose life such annuity shall depend was living upon a day to be specified in such certificate, which day shall be one of the days on which a half-yearly payment of such annuity shall have become due, or some day subsequent thereto; and such certificate shall be under the hand of the minister, or in his absence (which shall be expressed in such certificate) under the hands of the churchwardens or chapelwardens, or overseers, of the parish or place, (or any two of them,) within the United Kingdom, wherein such nominee shall be then resident, or under the hand of some justice of the peace or magistrate of the county, riding, city, or town, wherein such parish or place shall be situate; and in case any nominee shall at any time after his or her nomination become resident in parts beyond the seas, in any of the dominions of his Majesty, then such certificate as aforesaid shall be under the hands of the governor or person acting as governor of the settlement where such nominee shall be resident; and in case such nominee shall, after his or her nomination, become resident in any kingdom or state in Europe in amity with his Majesty, or in any other kingdom or state or place beyond the seas, then and in every such case such certificate

as aforesaid shall be under the hand of the British minister or consul, or governor, or person acting as such, who shall be resident in the city, town, or place, where such nominee shall be residing; and if no British minister or consul, or governor, or person acting as such, shall be resident in such city, town, or place, then such certificate as aforesaid shall be under the hand and seal of the chief magistrate of such city, town, or place, or any other magistrate acting at the time as such, or for or in the place of any such chief magistrate: Provided always, that in all cases where an annuity shall depend on the lives of two joint nominees, and the life of the longest liver of them, who shall both be living, it shall be sufficient to produce the certificate of the life of either of the nominees; and that in all cases where any annuity shall depend upon the joint continuance of the lives of two joint nominees, such certificate shall state that both such nominees are then living.

See 61 & 62 *Vict. c.* 46, *s.* 18.

25. Affidavit of the party producing Certificate of the Life of any Nominee.—There shall be annexed to every certificate of the life of any nominee, and produced to the proper officer, an affidavit or solemn affirmation made before some justice of the peace or magistrate, or before such comptroller general or assistant comptroller, or other officer appointed by and acting under the said commissioners, by the person or persons so entitled to such life annuity, or by the person applying to receive such annuity on behalf of the person or persons so entitled, which affidavit or affirmation shall state that the matters and things contained in such certificate are true to the best of the deponent's belief, and that the person described or certified therein is the nominee or one of the nominees, or both the nominees, in case the annuity shall depend upon the joint continuance of two joint nominees, on whose life or lives the annuity whereof such half-yearly payment shall be claimed doth depend; and in case such annuity shall have been granted on the lives of two nominees, and on the life of the longest liver of them, then in such affidavit or affirmation shall also be specified, to the best of the knowledge or belief of the deponent, whether the other of the two nominees, whose life shall not be so certified as aforesaid, be living or dead, and if living, the usual place of the residence of such nominee, or that such deponent is wholly ignorant whether the other of such two nominees be living or dead, and if living, the usual place of abode of such nominee, as the truth shall require.

26. On production of such Certificates or on personal appearance of Nominee, a Certificate shall be granted for payment of Annuity.—Upon the production to the proper officer of such certificate and affidavit as by this Act are required, or in case any nominee on whose life, whether singly or jointly with any other nominee and the life of the longest liver of them, any annuity shall depend, or where such annuity shall depend upon the joint continuance of the lives of two joint nominees, then in case both such nominees shall appear personally before such officer, and such officer shall be satisfied of the identity of such nominee or nominees, it shall be lawful for such officer, and he is hereby required, to grant to the person producing such certificates and affidavits, or to the person or persons entitled to the annuity depending upon the life of the nominee or nominees so appearing before such officer, a certificate; which certificate, being produced to and lodged with the proper officer of the Bank of England, shall be sufficient to authorize the receipt by or on behalf of the party entitled to such annuity, of the half-yearly payment of such annuity then due, and also of all such preceding half-yearly payments of such annuity as may have become due and shall then remain unpaid.

27. Certificates of Death of Nominees to be produced upon claim for payment of Arrears and additional Fourth Part on the expiration of any Annuity.—In all cases where upon the death of any single nominee, or of the survivor of any two joint nominees, or of either of the two joint nominees, (in cases where any expired annuity shall have depended upon the joint continuance of the lives of two joint nominees,) any claim shall be preferred under the provisions of this Act for the payment of a sum equal to one fourth part of the annuity depending upon the life or lives, and expired by the death of such nominee, then and in either of such cases the person or persons preferring such claim shall produce to the proper officer a certificate, specifying the day of the death or burial of such nominee, together with an affidavit in proof of the identity, and stating the day of the death of such nominee, to be respectively granted and taken by and before such and the like persons as are by this Act authorized and empowered to

grant certificates and to administer affidavits in proof of the life of any nominee; and upon the production of such certificate and affidavit at any time within thirty days next preceding the fifth day of January, fifth day of April, fifth day of July, or tenth day of October respectively in any year, it shall and may be lawful for such officer, and he is hereby authorized and required, at the next succeeding period of making the half-yearly payment of any life annuity granted under the provisions of this Act, or of any Act or Acts heretofore in force enabling the said commissioners to grant life annuities (whether such expired annuities shall or shall not have been payable at such half-yearly period,) to grant to the person producing such certificate of death or burial, and such affidavit of identity as aforesaid, a certificate of such production; and upon such last-mentioned certificate being lodged with the proper officer of the Bank of England, all half-yearly arrears which shall be and remain due upon any and every such expired annuity, and also the fourth part of every such expired annuity (in case such fourth part shall be claimed within two years after the death of the nominee, according to the provisions of this Act,) shall be made and paid to the person or persons entitled thereto.

28. Certificates of Burials of Quakers, &c.—It shall be lawful for the proper officer of the said commissioners for the reduction of the national debt, and he is hereby authorized, empowered, and required, to receive any extracts or copies from the registers of the Society of Friends commonly called Quakers, or from the registers of any dissenting or Roman Catholic chapel, or other chapel not being parochial, as evidence of the death or burial of any nominee or nominees; provided that such extracts or copies shall be duly certified under the hand of the registrar or person keeping such registers; and that such copy, so certified, shall be accompanied by an affidavit as to the identity of such nominee or nominees, to be made and taken by and before such and the like person and persons as is required by this Act on the death of any nominee.

29. Certificate as to Life of Nominee shall be applicable to all Annuities held for his Life—Personal appearance of Nominees.—Whenever it shall happen that two or more annuities shall have been purchased upon the life of the same nominee or nominees, and a certificate in conformity with the directions of this Act, in proof of such nominee or nominees being living, shall have been produced to the proper officer by or on the behalf of the person or persons entitled to any one of such annuities, it shall and may be lawful for the proper officer, upon the production of such affidavit or affidavits, or affirmation or affirmations, as to the identity of such nominee as are required by this Act, to grant a certificate or certificates for the purpose of enabling any person or persons entitled to any other annuity or annuities payable in respect of the life of such nominee or nominees to receive such annuity or annuities, without requiring the production of any further certificate; and in case of the personal appearance of any nominee or nominees as herein-before mentioned, the certificate authorizing the receipt of any annuity shall and may be granted by the said officer, without requiring any further proof of such nominee being living.

30. Further Annuities may be granted to persons having purchased any Annuity.—And for the purpose of enabling further purchases of any annuities to be made by any person to whom any annuity shall have been or shall be granted under the provisions of any Act heretofore in force enabling the said commissioners to grant life annuities, or under the provisions of this Act, be it enacted, that it shall be lawful for the commissioners for the reduction of the national debt, and they are hereby authorized and empowered, to accept the transfer of any three pounds per centum bank annuities to their account in the books of the Bank of England, the amount of which shall not be less than twenty pounds, or to accept and receive any bank annuities carrying a higher rate of interest than three pounds per centum per annum, or any long annuities, or any sum of money equivalent thereto, in lieu of such three pounds per centum bank annuities, to be computed and ascertained according to the average price of three pounds per centum consolidated or reduced bank annuities as herein-before directed, as the consideration for any further life annuity or for any further annuity for term of years authorized by this Act, to be valued and ascertained according to the average price of three pounds per centum annuities, and the age of the party nominated at the time of purchasing such further life annuity, in pursuance of the provisions of this Act.

31. Annuity purchased under any Act heretofore in force to be considered as one entire Annuity with any Annuity granted under this Act.—Whenever any person or persons shall purchase any life annuity under the provisions of this Act, who shall stand possessed in the books of the said bank of any annuity depending on the life of the said nominee, under any Act or Acts heretofore in force enabling the said commissioners to grant life annuities, the life annuity or annuities so purchased under this Act shall be added to such former life annuity, and such several life annuities shall be deemed and taken to be, to all intents and purposes, as one entire annuity depending upon the life of such nominee, as though such several annuities had been purchased under the provisions of this Act; and all letters of attorney from time to time in force, which shall have been granted for the purpose of receiving such life annuities so purchased under any of the said Acts, shall be valid and effectual for the purposes of this Act; any thing in any Act or Acts, or this Act, to the contrary thereof in anywise notwithstanding.

32. Immediate, Deferred, or Reversionary Life Annuities to be transferable entire, without change of Nominee.—The right, title, interest, and benefit, in and to any life annuity of whatsoever kind, whether such life annuity shall be immediate, deferred, or reversionary, or whether actually in the course of payment at the time of such transfer or not, which may be purchased under the provisions of this Act, shall from time to time be transferrable in the books of the Bank of England; provided that such annuity be transferred entire, and not in parts or shares, and that the original nominee or nominees of any annuity shall never be varied or changed, notwithstanding any transfer of the right or interest therein.

33. Annuities for years shall be transferrable in the whole or in part.—The right, title, interest, and benefit, in and to any annuities for any term of years, which may be purchased under the provisions of this Act, shall from time to time be transferrable, in whole or in part or parts, in the books of the Bank of England, during the continuance of the terms for which such annuities shall be granted.

34. Forms of Transfer used by Bank of England under former Acts may be used under this Act.—The form and words in use in the books of the Bank of England, under any Act or Acts heretofore in force, for enabling the transfer and assignment of any life annuities granted by the said commissioners for the reduction of the national debt under the provisions of any such Act or Acts, shall continue and be in force, and shall be used for the transfer and assignment of any life annuities which shall be granted under this Act; any thing in any Act or Acts, or in this Act, to the contrary thereof in anywise notwithstanding.

35. As to the liability of Annuities to Taxes—Annuities shall be Personal Estate.—Life annuities and annuities for terms of years, purchased under the provisions of this Act, shall not be subject or liable to any taxes, charges, or impositions whatever, other than and except such as dividends of bank annuities or long annuities are or may be subject and liable to; and all such annuities shall be deemed personal estate; and in all cases where the same shall not depend upon the life of the person entitled thereto shall go to the executors or administrators of such person, as personal estate, and shall not be descendible to heirs.

36. If Annual Payments for Deferred Annuities are not kept up, amount already paid shall be forfeited and right to Annuity lost.—Provided always, that whenever it shall happen that any person or persons, having made any one or more yearly payment or payments for or in respect of the purchase of any deferred or reversionary annuity under this Act, or their respective executors, administrators, successors, or assigns, shall make default in paying or continuing to make the residue of such annual payments, until the whole consideration for any such annuity shall be fully paid according to the agreement for the same, then and in every such case the amount of all annual payments which shall have been made previous to such default shall be forfeited for the benefit of the public, and all right and title to any annuity in respect thereof shall be extinguished.

37. Transfers of right to Deferred Annuities to be purchased by Annual Payments shall be registered—Annuities to be transferred entire, and without change of Nominees—Right to Deferred Annuities may be devised, and the Will shall be registered.—Every transfer of any right, title, interest, or benefit, of, in, or to any deferred or reversionary annuity, the consideration of which shall be agreed and

contracted for by annual payments in money under this Act, shall be entered and registered in such books as the commissioners for the reduction of the national debt shall order and direct, which entry shall be conceived in proper words for that purpose, and shall be signed by the parties making such assignment or transfer, or by their attorney or attornies thereto lawfully authorized, in writing under hand and seal, attested by two or more credible witnesses; and the several persons to whom such transfers shall be made shall (if the commissioners for the reduction of the national debt or the officer acting in their behalf shall require them so to do) respectively underwrite his, her, or their acceptance thereof in such books, and no other method of assigning and transferring the title to such annuities shall be good or available in law: Provided always, that such annuities shall be transferred entire, and not in parts or shares; and that the original nominee or nominees (in case of life annuities) shall never be varied or changed, notwithstanding any transfer of any such right, title, or interest as aforesaid: Provided also, that all persons possessed of any right, title, or interest of or in such annuities may devise the same by will as personal estate, but that no payment shall be received from any devisee until so much of such will as relates to such estate or interest in such annuities be entered in such books.

38. Certificates, Transfers, Receipts, &c. exempt from Stamp Duty.—No stamp duty whatever shall be paid or payable upon or in respect of any copy of any register of the birth or baptism or burial of any nominee or other person; or upon or in respect of any certificate, affidavit, or affirmation, to be made or taken in pursuance of this Act; or any transfer of bank annuities or long annuities, which shall be made to the said commissioners for the reduction of the national debt under this Act; or any certificate or other instrument respecting the payment of money for the purchase of any annuity under this Act; or any transfer or acceptance of any such annuity in the books of the Bank of England; or any receipt for the payment of any such annuity, or any part thereof, at the Bank of England; but the same shall be respectively free from all stamp duties whatsoever; any thing in any Act or Acts to the contrary notwithstanding.

39. Bank shall make up Yearly Account of Annuities unclaimed for three years—Unclaimed and expired Annuities to cease as a charge upon Consolidated Fund; but not so as to prejudice the rights of parties to Annuities unclaimed.—The governor and company of the Bank of England shall and they are hereby required to cause to be made up to the fifth day of January in each and every year, an account of all life annuities granted by the said commissioners, in pursuance of any Act heretofore in force, and of all annuities for lives or years, of whatsoever kind, granted in pursuance of this Act, which shall have remained unclaimed for the space of three years then next preceding; and all such annuities so remaining unclaimed, together with the unclaimed half-yearly arrears thereof, and also all annuities for lives or years, of whatsoever kind, which shall have expired, and all half-yearly arrears thereof, shall cease to be charged upon and shall not be issued or issuable out of the said consolidated fund, from and after the day upon which any such annuities for lives or years shall have remained so unclaimed or shall have expired: Provided always, that nothing in this Act contained shall extend or be construed to extend to defeat or prejudice the rights of any person entitled to any such annuity for lives or years to claim the half yearly arrears and future payments thereof: Provided also, that in respect of any life annuities such claim shall be supported by the production of the proper certificates and affidavits or affirmations in proof of the life of the nominee or nominees upon whose life or lives such life annuity depended, or upon the personal appearance of such nominee or nominees, as required by this Act; and in every such case it shall and may be lawful for the said commissioners to reinstate the said annuities for lives or years so claimed, and to charge the same from time to time upon the said consolidated fund, and also all arrears thereof; and the said governor and company are hereby required, out of any sums whatever which shall have been paid to them, and carried in their books to the account of the commissioners for the reduction of the national debt, to pay the said annuities, and all arrears thereof accordingly.

40. Penalty on False Certificate of Age of Nominee—Forfeiture of the Consideration Money and Annuity; treble the sums paid, and L.500.—If any certificate or affidavit or affirmation shall be produced to the officer of the commissioners for the reduction of the national debt, which shall contain any untrue statement of the age of any person proposed or appointed to be a nominee, with intent to obtain an

annuity on the continuance of the life of any person under the age of fifteen years, or to obtain any higher rate or amount of annuity during the life of any nominee or nominees than would or might be allowed under the provisions of this Act, according to the true age of such nominee or nominees, then and in every such case all bank annuities or long annuities which may have been transferred, and all money which may have been paid, for or on account of the purchase of such annuity, shall be forfeited to the said commissioners, and all right and title to any annuity which would or might otherwise have been payable in respect thereof shall cease and determine; and the person or persons by whom or on whose behalf such bank annuities or long annuities shall have been transferred, or such money shall have been paid, shall forfeit to his Majesty, treble the amount of any and every sum which may have been received by or on behalf of such person, on account or in respect of any such annuity, and also the further sum of five hundred pounds.

41. Penalty on forging Register, Certificate, Transfers, &c., Felony, punishable by Death.—If any person or persons shall forge, counterfeit, or alter, or shall cause or procure to be forged, counterfeited, or altered, or shall knowingly or wilfully act or assist in the forging, counterfeiting, or altering, any register or registers of the birth or baptism or death or burial of any person or persons to be appointed a nominee or nominees under the provisions of this Act, or any copy or certificate of any such register, or the name or names of any witness or witnesses to any such certificate, or any affidavit or affirmation required to be taken for any of the purposes of this Act, or any certificate of any justice of the peace or magistrate, or of any officer acting under the said commissioners for the reduction of the national debt, of any such affidavit or affirmation having been taken before him, or any certificate of any governor or person acting as such, or minister or consul, or chief magistrate of any province, town, or place, or other person authorized by this Act to grant any certificate of the life or death of any nominee; or shall forge, counterfeit, or alter, or shall cause or procure to be forged, counterfeited, or altered, or shall knowingly or wilfully act or assist in the forging, counterfeiting, or altering, any certificate or certificates of any officer of the commissioners for the reduction of the national debt, or of any cashier or clerk of the Bank of England, or the name or names of any person or persons in or to any transfer of any bank annuities or long annuities, or in or to any certificate or other instrument for the payment of money, for the purchase of any annuity under the provisions of this Act, or in or to any transfer or acceptance of any such annuity in the books of the Bank of England, or in or to any receipt or discharge for any such annuity, or in or to any receipt or discharge for any payment or payments due or to become due thereon, or in or to any letter of attorney or other authority or instrument to authorize or purporting to authorize the transfer or acceptance of any bank annuities or long annuities, or any life annuity, or any annuity for years of whatsoever kind, under the provisions of this Act, or authorizing or purporting to authorize the receipt of any life annuity, or any annuity for years of whatsoever kind, granted under this Act, or any payment or payments due or to become due thereon; or if any person or persons shall wilfully, falsely, and deceitfully personate any true and real nominee or nominees, or shall wilfully utter or deliver or produce, to any person or persons acting under the authority of this Act, any such forged register or copy of register, or any such forged certificate, affidavit, or affirmation, knowing the same to be forged, counterfeited, or altered, with intent to defraud his Majesty, or with intent to defraud any person or persons whomsoever; then and in every such case all and every persons and person so offending, and being lawfully convicted thereof, shall be adjudged guilty of felony, and shall suffer death.

42. Penalty on receiving Annuity after death of Nominee, treble the Amount received, and L.500.—If any person or persons shall, for his, her, or their own use, or the use of any other person or persons, receive any one or more payment or payments (otherwise than as authorized by this Act), upon or in respect of any annuity granted under the provisions of this Act, after the death of any single or surviving nominee on the continuance of whose life such annuity was payable, or after the death of either nominee, in case the annuity shall have been granted upon the joint continuance of the lives of two joint nominees, and after and beyond the time on which such annuity ought wholly to cease in consequence of the death of such nominee, by virtue of this Act, knowing such nominee to be dead, and contrary to the true intent and meaning of this

Act; every person so offending shall forfeit to his Majesty, treble the amount of all money so received, and also the further sum of five hundred pounds.

43. Recovery and application of Penalties—Reward to Informers.—All pecuniary penalties and forfeitures imposed by this Act shall be recoverable (if incurred in England) in the name of his Majesty's attorney general, on the part of his Majesty, by information in the Court of Exchequer at Westminster; or (if incurred in Ireland) in the name of his Majesty's attorney general, in the Court of Exchequer at Dublin; or (if incurred in Scotland) in the name of his Majesty's advocate general, in the Court of Exchequer in Scotland; and such penalty and forfeiture shall go and belong to and shall become part of the consolidated fund: Provided always, that it shall be lawful for the commissioners for the reduction of the national debt to cause such reward as they shall think fit, not exceeding one moiety of any such penalty or forfeiture so recovered, after deducting all charges and expenses incurred in recovering the same, to be paid to any person or persons who shall appear to them to be entitled thereto, as informer or informers, in respect of such penalty or forfeiture so recovered.

44. Perjury.—If any person, in any affidavit to be taken before any justice of the peace or magistrate, or before any officer acting under the said commissioners, under the provisions of this Act, shall wilfully or corruptly swear or affirm any matter or thing which shall be false or untrue, every such person so offending, and being thereof duly convicted, shall be and is hereby declared to be subject and liable to such pains and penalties as by any laws now in force any persons convicted of wilful and corrupt perjury are subject and liable to.

45. Certificates, &c. shall be in the form directed by the Commissioners, &c. —Evidence not strictly conformable may be admitted in certain Cases; and errors in Contracts, &c. amended.—All certificates or other instruments whatever required for carrying this Act into execution shall be in such form and under such regulations as the commissioners for the reduction of the national debt, or the comptroller general or assistant comptroller acting under the said commissioners, shall from time to time direct and approve: Provided always, that in all cases whatever relating to the purchase or receipt of any annuity for lives or years, of whatsoever kind, under the provisions of this Act, it shall be lawful for the said commissioners, or for the comptroller general or assistant comptroller acting under the said commissioners, and they are hereby severally authorized and empowered, where any evidence shall be produced by any person for the purchase or receipt of any such annuity, not strictly conformable to the provisions of this Act, to admit such evidence for the purposes of this Act respecting the same as shall or may appear to the said commissioners, or the said comptroller general or assistant comptroller, to be satisfactory; and also to correct, rectify, and amend, any contract for any such annuity, or certificate or other instrument, in cases wherein any mistake or accidental error shall or may have been made in the execution of this Act; any thing in this Act to the contrary thereof in anywise notwithstanding.

46. No Fees to be taken by Commissioners.—No fee whatever shall be received or taken by any officer acting under the commissioners for the reduction of the national debt, for granting any certificate, or for any act, matter, or thing, to be done in pursuance of this Act.

47. Appointment of Clerks and Officers.—It shall be lawful for the commissioners for the reduction of the national debt, and they are hereby authorized and empowered, from time to time to appoint such officers, clerks, and other persons, as may be necessary for carrying this Act into execution, and as may be approved by the Treasury.

48. For defraying Expences attending the execution of this Act.—It shall be lawful for the Treasury, to order and direct to be issued and paid out of the fund upon which the establishment of the commissioners for the reduction of the national debt is chargeable, any sum or sums of money for the payment of salaries to officers and clerks acting in the execution of this Act, and for discharging such incidental expences as shall necessarily attend the execution thereof, in such manner as the Treasury shall from time to time think fit and reasonable; and also to settle and appoint such allowances as shall be proper for the pains and labour of the cashier or cashiers, or other officer or officers, of the Bank of England in the execution of this Act, which last-mentioned allowances shall be for the use and benefit of the said governor and company, and at their disposal only.

49. Quorum of Commissioners.—It shall be lawful for any three or more of the commissioners for the reduction of the national debt for the time being to execute and do all matters and things which the said commissioners are required or empowered to do for the execution of this Act.

50. Account to be annually laid before Parliament of Annuities transferred and Money paid and Annuities granted.—There shall be prepared, and annually laid before both Houses of Parliament, on or before the twenty-fifth day of March in every year, if Parliament shall be then sitting, and if Parliament shall not be then sitting, then within fourteen days after the commencement of the then next session of Parliament, an account made up by the commissioners for the reduction of the national debt, to the fifth day of January preceding, of the gross amount of all bank annuities and long annuities, and any other annuities for terms of years, transferred, and of all sums of money paid to the said commissioners, and the gross amount of annuities for lives and for terms of years which shall have been granted for the same, under the provisions of this Act, within the year ending on the fifth day of January as aforesaid.

[*S.* **51** *rep.* 56 *&* 57 *Vict. c.* 61; *s.* **52** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

CHAPTER XXXVIII.

The Criminal Law (Scotland) Act, 1829 (*Short Titles Act*, 1896).

An Act for the more effectual Punishment of Attempts to murder in certain Cases in Scotland. [4th June 1829.]

[*Preamble.*]

[*S.* **1** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

2. Persons wilfully shooting, stabbing, strangling, &c. in Scotland, punishable with Death.—If any person shall, within Scotland, wilfully, maliciously, and unlawfully shoot at any of his Majesty's subjects, or shall wilfully, maliciously, and unlawfully present, point, or level, any kind of loaded fire arms at any of his Majesty's subjects, and attempt, by drawing a trigger or in any other manner, to discharge the same at or against his or their person or persons; or shall wilfully, maliciously, and unlawfully stab or cut any of his Majesty's subjects, with intent, in so doing, or by means thereof, to murder or to maim, disfigure or disable, such his Majesty's subject or subjects, or with intent to do some other grievous bodily harm to such his Majesty's subject or subjects; or shall wilfully, maliciously, and unlawfully administer to or cause to be administered to or taken by any of his Majesty's subjects any deadly poison or other noxious and destructive substance or thing, with intent thereby, or by means thereof, to murder or disable such his Majesty's subject or subjects, or with intent to do some other grievous bodily harm to such his Majesty's subject or subjects; or shall wilfully, maliciously, and unlawfully attempt to suffocate or to strangle or to drown any of his Majesty's subject or subjects, with the intent thereby, or by means thereof, to murder or disable such his Majesty's subject or subjects, or with intent to do some other grievous bodily harm to such his Majesty's subject or subjects; such person so offending, and being lawfully found guilty, actor, or art and part of any one or more of the several offences herein-before enumerated, shall be held guilty of a capital crime, and shall receive sentence of death accordingly.

3. Throwing Sulphuric Acid, &c. punishable with Death.—If any person in Scotland shall wilfully, maliciously, and unlawfully throw at or otherwise apply to any of his Majesty's subject or subjects any sulphuric acid, or other corrosive substance calculated by external application to burn or injure the human frame, with intent in so doing, or by means thereof, to murder or maim or disfigure or disable such his Majesty's subject or subjects, or with intent to do some other grievous bodily harm to such of his Majesty's subject or subjects, and where, in consequence of such acid or other substance being so wilfully, maliciously, and unlawfully thrown or applied with intent as aforesaid, any of his Majesty's subjects shall be maimed, disfigured, or disabled, or receive other grievous bodily harm, such person, being thereof lawfully found guilty, actor, or art and

part, shall be held guilty of a capital crime, and shall receive sentence of death accordingly.

4. PROVISO IF THE ACTS DONE WOULD NOT HAVE AMOUNTED TO MURDER.—Provided always, that if it shall appear, upon the trial of any person accused of any of the several offences herein-before enumerated, that under the circumstances of the case, if death had ensued, the act or acts done would not have amounted to the crime of murder, such person shall not be held guilty of a capital crime, or be subject to the punishment aforesaid.

5. POWER OF PROSECUTOR TO RESTRICT PAINS OF LAW NOT AFFECTED.—Nothing contained in this or in any other statute enacting a capital punishment shall be held to affect or impair the power of the prosecutor to restrict the pains of law.

CHAPTER L.

THE CROWN LANDS ACT, 1829 (*Short Titles Act*, 1896).

AN ACT to consolidate and amend the Laws relating to the Management and Improvement of his Majesty's Woods, Forests, Parks, and Chases; of the Land Revenue of the Crown within the Survey of the Exchequer in England; and of the Land Revenue of the Crown in Ireland; and for extending certain Provisions relating to the same to the Isles of Man and Alderney. [19th June 1829.]

The provisions of this Act as to the management of Crown lands and revenues in England applied to Crown lands and revenue in Scotland, 3 & 4 *W.* 4, *c.* 69, *ss.* 2, 3.

[*Preamble.*]

[*Ss.* **1–4** *rep.* 36 & 37 *Vict. c.* 91 (*S.L.R.*); *s.* **5** *local and personal; s.* **6** *rep.* 37 & 38 *Vict. c.* 35 (*S.L.R.*); *s.* **7** *rep.* 36 & 37 *Vict. c.* 91 (*S.L.R.*).]

8. POSSESSIONS AND LAND REVENUES OF THE CROWN PLACED UNDER THE MANAGEMENT OF THE COMMISSIONERS OF WOODS.—All honours, hundreds, castles, lordships, manors, forests, chases, woods, parks, messuages, lands, tithes, fisheries, franchises, services, rents, and other land revenues, possessions, tenements, and hereditaments whatsoever, (advowsons of churches and vicarages only excepted,) which now do belong to his Majesty or hereafter shall belong to his Majesty, within the ordering and survey of the Court of Exchequer in England or Wales, in Ireland, in the Isle of Man and its dependencies, and the Isle of Alderney, whether in possession, remainder, or reversion, (which said honours, hundreds, castles, lordships, manors, forests, chases, woods, parks, messuages, lands, tithes, fisheries, franchises, services, rents, and other land revenues, possessions, tenements, and hereditaments, are herein-after, for the sake of distinction called "the possessions and land revenues of the crown to which this Act relates,") shall be under the management of the commissioners of woods, to be from time to time appointed by his Majesty, by his letters patent; . . . . . .

S. 8 *in part rep.* 36 & 37 *Vict. c.* 91 (*S.L.R.*).

[*Ss.* **9, 10** *rep.* 36 & 37 *Vict. c.* 91 (*S.L.R.*).]

11. SALARIES OF COMMISSIONERS.— . . . By the letters patent by which any future commissioners of woods shall be appointed, his Majesty may grant to the several persons therein named as such commissioners the following salaries and allowances; (that is to say,) to the person first named therein, who shall be chairman of the commission, a salary of two thousand pounds per annum, and to the other commissioners a salary of one thousand two hundred pounds per annum each; which salaries shall be clear of all fees and deductions, and shall be paid by four equal quarterly payments, ...

S. 11 *in part rep.* 51 & 52 *Vict. c.* 3 (*S.L.R.*), *and* 53 & 54 *Vict. c.* 33 (*S.L.R.*).

12. POWER TO COMMISSIONERS TO APPOINT AND REMOVE OFFICERS—SALARIES OF OFFICERS.—It shall be lawful for the said commissioners of woods, from time to time as

they shall think proper, to remove any deputies, clerks, receivers, surveyors, or other officers, already appointed to or exercising or enjoying any offices connected with or relating to the said possessions and land revenues of the crown to which this Act relates, or who shall be hereafter appointed under the provisions of this Act; and it shall also be lawful for the said commissioners, from time to time as they may think proper, to appoint such deputies, clerks, receivers, surveyors, and other officers, as shall be necessary or proper for the due execution of this Act, and to remove them at pleasure; and all and every the deputies, clerks, receivers, surveyors, and other officers, already appointed and to be appointed as aforesaid, shall have, receive, and enjoy such salaries respectively, and payable at such days or times respectively as shall be in that behalf from time to time directed by the Treasury.

13. Officers to be sworn—Oath.—Every officer to be appointed to any office by the said commissioners of woods, under the authority of this Act, shall take the following oath, to be administered to him by any one or more of the said commissioners, or if the said commissioners shall direct, and any such officer shall be sworn before any justice of the peace or magistrate, then by any justice of the peace or magistrate; (that is to say,)

'I A.B. do swear, that I will truly, honestly, faithfully, and diligently, execute the 'duties of the office to which I have been appointed by the commissioners of woods.

'So help me GOD.'

14. Commissioners empowered to appoint Stewards of Hundreds, Manors, &c. and other Officers, in certain cases.—It shall be lawful for the said commissioners of woods, from time to time to appoint such persons as they shall think fit to be the stewards of any hundreds, honours, manors, or lordships, being part of the possessions and land revenues of the crown to which this Act relates, with power and authority to hold and keep all and singular hundred courts, courts leet, views of frank-pledge, courts baron, and customary and other courts, within the limits and precincts of such hundreds, honours, manors, or lordships respectively, and to perform and execute all things belonging or incident to such offices; and also from time to time in like manner to appoint such person or persons as the said commissioners should think fit to execute all usual and customary forestal offices, and to preserve the deer, beasts and birds of chase or warren, and other game within any such hundreds, manors, or lordships, or any of the royal forests, parks, chases, or warrens, or the limits or precincts thereof, being part of the possessions and land revenues of the crown to which this Act relates; and also to preserve the fish belonging to his Majesty, in any of the waters within the limits precincts aforesaid; and on his Majesty's behalf to grant licences to any person or persons to hunt, hawk, fish, and fowl, within any of such hundreds, honours, manors, lordships, forests, parks, chases, warrens, and waters respectively, and the demesnes thereof, and places thereto adjoining, and to take and kill any such deer, beasts or birds of chase or warren; also to take, seize, and destroy, all unlawful dogs, nets, guns, and engines, used for the taking or destroying of deer, beasts or birds of chase or warren, or other game and fish; and the same appointments and licences respectively, or any of them, again at pleasure to revoke; and also to allow to any such stewards, gamekeepers, or other officers respectively, such salaries, wages, or emoluments, as the said commissioners, with the consent of the Treasury, shall deem an adequate remuneration for their care and trouble in executing the duties of their respective offices or employments; and all such appointments so to be made as aforesaid shall be good, valid, and effectual, to all intents and purposes whatsoever, and have such and the like force and effect as if the same had been made by his Majesty.

[*S.* **15** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

16. Two Commissioners of Woods may act.—When any thing is by this Act or shall by any future Act be required, directed, or permitted to be done by the commissioners of woods, the same may be done by any two of them, unless express provision to the contrary shall be made by such further Act, and if done by any two of them shall be as valid and effectual as if done by all of them; . . . . . .

S. 16 *in part rep.* 53 *&* 54 *Vict. c.* 33 (*S.L.R.*).

17. The Commissioners exempted from personal responsibility in regard to Mortgages and other Instruments.—Nothing contained in this Act, or to be contained

in any mortgage, contract, lease, or other instrument hereby authorized to be entered into, made, taken, or executed by the commissioners of woods, or any of them, shall extend to charge the persons or person of all or any of the commissioners executing any such mortgage, contract, lease, or other instrument, or the heirs, executors, or administrators of the same commissioners, or any of them, or their or any of their own proper lands, tenements, goods, or chattels, with or for the performance of all or any of the covenants, conditions, or agreements in the same mortgage, contract, lease, or other instrument to be contained on the part of the same commissioners or any of them; but the amount of all sums, costs, charges, damages, and expences, which shall or may be recovered in any suit or suits at law or in equity against them the said commissioners or any of them, or against their or any of their heirs, executors, or administrators, for or by reason or means of any such mortgage, contract, lease, or other instrument, or the covenants, conditions, or agreements therein contained, and also all the costs, charges, damages, and expences, which the said commissioners or any of them, or their or any of their heirs, executors, or administrators, shall bear, pay, expend, or be put to, or which shall be occasioned to them, for or by reason or means of any such mortgage, contract, lease, or other instrument, or any covenant, condition, or agreement therein contained, or any action or actions, suit or suits, to be brought or prosecuted by or against them or any of them thereupon, shall respectively be paid and discharged by and out of the monies to be raised, arise, or be received from the said possessions and land revenues of the crown to which this Act relates.

[*Ss.* **18–21** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

22. Commissioners may grant Leases for 31 years.—It shall be lawful for the said commissioners of woods from time to time to demise and lease, and to enter into any contract or agreement for demising and leasing, to any person or persons, or body or bodies politic, corporate, or collegiate, any part or parts of the possessions and land revenues of the crown to which this Act relates, for any term not exceeding thirty-one years from the time of making the lease or agreement for a lease.

23. Leases of certain Buildings, and of Ground for building on, or for making Gardens, &c. may be made for 99 years.—In any of the instances herein-after mentioned it shall be lawful for the commissioners of woods from time to time to demise and lease, or to enter into any contract or agreement for demising and leasing, any part or parts of the said possessions and land revenues of the crown to which this Act relates, to any person or persons, or body or bodies politic, corporate, or collegiate, for any term not exceeding ninety-nine years from the time of making such lease or agreement; (that is to say,) of tenements or hereditaments, the greater part of the yearly value of which shall at the time of making the lease or agreement consist of any building or buildings; of land or ground proper for the erection of any houses or other buildings thereupon, with or or without gardens, yards, curtilages, or other appurtenances, to be used therewith, and where the lessee or intended lessee shall covenant or agree to erect a building or buildings thereon of greater yearly value than such land or ground; of land or ground proper for gardens, yards, curtilages, or other appurtenances, to be used with any other house or other building erected or to be erected on any ground belonging either to his Majesty, or to any other proprietor, or proper for any other purpose calculated to afford convenience or accommodation to the occupiers of any such house or building.

24. Leases for Gardens not to extend beyond duration of Lease of House to which same shall be attached.—Provided nevertheless, that no land or ground proper for gardens, yards, curtilages, or other appurtenances, to be used with any house or other building erected or to be erected on any ground belonging to his Majesty, or proper for any other purpose calculated to afford convenience or accommodation to the occupier or occupiers of any such house or building, shall, under the provisions herein-before contained, authorizing the same to be demised for any term not exceeding ninety-nine years, be demised or agreed to be demised for any term which shall extend beyond the duration of the subsisting lease or leases of the house or building to which the same shall be intended to be attached.

25. Power of leasing not to extend to Royal Forests, &c.—Provided nevertheless, that the powers of leasing herein-before given shall not extend to the demising or leasing of any of the royal forests, parks, or chases in England, or any part or parcel thereof.

26. Leases may be either in Possession or Reversion.—Any lease hereby authorized to be made may be made either to take effect as a lease in possession or as a lease of the reversion, subject to any existing lease, or by way of future interest, provided the same be not made for any term which will extend beyond thirty-one years; or, where a lease for a term of ninety-nine years is hereby authorized to be made, then provided such lease be not made for any term which will extend beyond ninety-nine years from the time when such lease shall be made; or, if made in pursuance of a previous agreement, then from the time when such agreement shall have been made.

27. Provisions to be observed in granting Leases.—In all leases to be granted under the authority of this Act the rents shall be reserved and made payable to his Majesty, free and clear of all manner of taxes and assessments whatsoever; and in each such lease there shall be contained a proviso or condition for re-entry on nonpayment of the rent thereby reserved, or nonobservance or nonperformance of the covenants therein contained, and on the part of the lessee or lessees to be observed and performed; and the lessee or lessees named in each such lease shall execute a counterpart thereof; and in no lease shall the lessee or lessees be made dispunishable for waste, except in leases of mines, minerals, quarries, or collieries, and in leases to be made under the power herein-before given of leasing for a term not exceeding ninety-nine years, in which leases the lessee or lessees may be made dispunishable for waste, if the said commissioners of woods shall think proper.

28. Leases to be at Rack Rent without Fine, except in the cases after mentioned.—In every lease to be granted under the power herein-before given there shall be reserved and made payable during the whole of the term thereby granted such clear yearly rent as to the said commissioners of woods shall appear a reasonable rent or consideration for such lease, without taking any fine for the same, except as herein-after mentioned.

29. Accepting a surrender of existing Lease not to be considered as taking a Fine.—Provided always, that in estimating the amount of any rent to be reserved on any lease to be granted under the powers of this Act it shall be lawful for the said commissioners to take into consideration the surrender of any existing lease of the property comprised in the lease to be so granted, or any part thereof; and the acceptance of such surrender shall not be considered as the taking a fine within the meaning of the said last-mentioned provision.

30. In Building Leases for a term not exceeding 99 years, a nominal Rent only may be reserved during the first three years.—Provided also, that in any lease to be granted under any of the powers herein-before given, of any land or ground, tenements or hereditaments, where at the time of granting such lease (or, if such lease shall be granted in pursuance of a previous agreement, at the time when such agreement shall have been made,) there shall not be any substantial building or buildings upon the land or ground to be demised, and the lessee or lessees shall agree to erect on such land or ground any building or buildings of greater yearly value than the land or ground demised or agreed to be demised, it shall be lawful to reserve, during any period not exceeding the first three years of the term thereby granted, a nominal rent, or such other rent only as to the said commissioners of woods shall seem fit.

31. And in Leases of Buildings a Fine in lieu of any part not exceeding one third of the Rent may be taken or not—How the amount of the Fines shall be calculated.—Provided also, that in any lease to be granted for any term not exceeding ninety-nine years, under the power herein-before given, of any land or ground, tenements or hereditaments, where at the time of granting such lease, or (if such lease shall be granted in pursuance of a previous agreement) at the time when such agreement shall have been made, there shall be any substantial building or buildings upon the land or ground to be demised, and the building or buildings thereupon shall not require or shall not be intended or agreed to be rebuilt, it shall be lawful for the said commissioners of woods to take a fine on the granting of any such lease, provided that such fine shall not be taken in lieu of any further part than one third of such annual sum as it shall appear to them would have been a reasonable rent or consideration for such lease in case no fine had been taken, the remainder of such annual sum being reserved by way of rent; and the amount of the fine to be so taken shall not be less than the sum to which the portion of the annual sum in lieu of which it shall be taken would have amounted during the term to be granted, deducting a discount, to be computed by way of

compound interest, at no higher rate than the highest legal rate of interest in England, if the property to be demised shall be in England or Wales, or than the highest legal rate of interest in Ireland, if the property to be demised shall be in Ireland.

32. Leases of Præ and Post Fines in Wales and Chester, Profits of Tolls, &c.—Provided also, that any lease of the profits of præ and post fines arising within the principality of Wales and county palatine of Chester, the profits of tolls, markets, and fairs, tithes, fisheries, ferries, and other articles of uncertain produce, may be granted as such rent only, or at such rent and for such fine, as to the said commissioners of woods shall seem proper.

33. Reservation of Rent in Leases of Mines.—Provided also, that in any leases of mines, collieries, or quarries, it shall be lawful to reserve either an annual rent in money, or any annual rent in money and such share of the produce in kind, or such rent or duty upon the quantity or value of such produce, as the said commissioners of woods shall think proper.

34. Commissioners empowered to sell.—It shall be lawful for the said commissioners of woods, and they are hereby authorized and empowered, from time to time, to contract and agree with any person or persons, or body or bodies politic, corporate, or collegiate, for the sale of, and absolutely to make sale and dispose of, for such sum or sums of money as to them shall appear a sufficient consideration for the same, any part or parts of the said possessions and land revenues of the crown to which this Act relates, not being part or parcel of any of the royal forests, parks, or chases in England.

35. Mode of payment of Purchase Money—Conveyance and Receipt in the form in the Schedule on payment of Purchase Money.—Whenever the commissioners of woods shall have contracted or agreed with any person or persons, body or bodies politic, corporate, or collegiate, under the authority of this Act, for the sale to him, her, or them of any part or parts of the said possessions and land revenues of the crown to which this Act relates, (not being any subsisting lease which may have been purchased or taken as herein-after mentioned,) the purchaser or purchasers, in case the purchase money shall amount to the sum of one hundred pounds, shall cause the same to be paid into the Bank of England, or, if the hereditaments purchased shall be situated in Ireland, then either into the Bank of England or the Bank of Ireland, at his or their option; and the cashiers of the Bank of England, or Bank of Ireland, as the case may be, or one of such cashiers, shall, upon the production of any note signed by the said commissioners, specifying the sum to be so paid, and that it is to be so paid to their account, accept and receive the same, and carry the same to the account of the said commissioners of woods, and give a receipt for the same without fee or reward; but if such purchase money shall not amount to the sum of one hundred pounds, it shall not be necessary for the purchaser or purchasers to pay the same into the Bank of England or Bank of Ireland, but he or they may, at his or their option, either pay the same into the Bank of England or Bank of Ireland as aforesaid, (in which case the cashiers, or one of them, of the Bank of England or Bank of Ireland, as the case may be, shall accept and give a receipt for the same as aforesaid,) or to the said commissioners of woods, or any one of their receivers, or any agent to be appointed by them for that purpose; and the said commissioners of woods shall, on the production of the receipt of the cashiers, or of one of the cashiers, of the Bank of England or Bank of Ireland, for such purchase money, or, in case the same shall not amount to one hundred pounds, then either on the production of such receipt or on the payment to them, their receiver or agent, of such purchase money, execute to the purchaser or purchasers a conveyance, under their hands and seals, of the premises agreed to be sold, and give a receipt for the purchase money under their hands; and every such conveyance and receipt may be according to the forms for those purposes respectively set forth in the schedule to this Act annexed, or in any other forms which may be deemed more convenient; and every such conveyance and receipt shall be attested, as to the execution and signing thereof by the said commissioner, by at least one witness; and every such conveyance shall be valid and sufficient to pass all the estate, right, and interest of his Majesty, in and to the part or parts of the said possessions and land revenues of the crown to which the same shall relate, to the person or persons, or body or bodies politic, corporate, or collegiate, therein named as the grantee or grantees, for such estate or estates, to such uses, and upon and for such trusts, intents, and purposes, (if any,) as shall in and by such conveyance, or by refer-

ence therein to any other instrument or instruments, or deed or deeds, be expressed or declared of or concerning the same.

36. Conveyances of Rents sold to express whether the same shall be extinguished or enjoyed by the Purchaser.—Where any quit rent or other rent shall be sold under the authority of this Act, it shall be expressed in the conveyance thereof whether the same is to become extinguished, or whether the same is to be held and enjoyed by the purchaser or purchasers, or his, her, or their trustee or trustees; and in all cases where the conveyance shall express that the rent is to become extinguished, the same shall, immediately upon the execution of the conveyance, cease and become extinguished; and in all cases where the conveyance shall express that the rent is to be held and enjoyed by the purchaser or purchasers, or his, her, or their trustee or trustees, the same shall, from and after the execution of the conveyance, become and remain vested in the purchaser or purchasers, and his, her, or their trustee or trustees, and his, her, or their heirs or successors and assigns, and shall be paid and payable to them by two even half-yearly payments, on the twenty-fifth day of March and the twenty-ninth day of September in every year; and every such purchaser or trustee, his or her heirs, successors, and assigns, shall have the like remedy for recovering such rents by distress, and by impounding and selling the goods, chattels, or effects distrained, as in case of rent-charges.

[*Ss.* **37, 38** *apply to Ireland exclusively.*]

39. Corporations empowered to purchase Rents, &c. charged on their own Lands.—It shall be lawful for any body politic, corporate, or collegiate, having any estate or interest in any hereditaments which may be subject to any rent or rents, or any manorial, forestal, or other rights hereby authorized to be sold, to contract for and purchase of the said commissioners of woods such rent or rents, or such manorial, forestal, or other rights; the statutes of mortmain or any other Act or law to the contrary notwithstanding.

40. Trustees for incapacitated persons authorized to purchase Rents, &c. charged on their Lands; but if the Purchase Money exceeds L.200, only with sanction of a Court of Equity.—It shall be lawful for the committee or committees of any lunatic, or the guardian or guardians of any infant, or the trustee or trustees for any feme covert, or other person under any incapacity, which lunatic, infant, feme covert, or other incapacitated person may be interested in any hereditaments upon which any rent or rents hereby authorized to be sold may be charged, or which may be subject to any manorial, forestal, or other rights hereby authorized to be sold, to contract with and purchase of the said commissioners of woods, such rent or rents, or such manorial, forestal, or other rights, on behalf of such lunatic, infant, feme covert, or other incapacitated person, and to apply any monies in their or his hands belonging to such lunatic, infant, feme covert, or other incapacitated person for that purpose; and this Act, without any further authority, except in the instance herein-after mentioned, shall be a sufficient indemnity to every such committee, guardian, and trustee, for the application of the money applied in such purchase, and in payment of the expences attending the same: Provided nevertheless, that if the purchase money shall exceed the sum of two hundred pounds, the same shall not be so applied without the sanction and authority of the Court of Exchequer in England, if the hereditaments charged with such rent or subject to such rights shall be in England or Wales, or of the High Court of Chancery in Ireland, if the hereditaments charged with such rent or subject to such rights shall be in Ireland; which sanction and authority the said courts respectively are hereby empowered to give, on petition, in a summary way or otherwise, as to the same courts respectively shall seem fit.

41. Tenants for Life, Trustees, &c. authorized to raise Money by Mortgage in Fee, Sale, &c. to redeem Quit Rents, Manorial Rights, &c. charged on their Estates; but if the Money raised shall exceed L.200, only with the sanction of a Court of Equity.—[*Recital*] It shall be lawful for any tenant for life or lives, tenant in tail, or tenant for any determinable fee, of any hereditaments upon which any rent or rents hereby authorized to be sold may be charged, or which may be subject to any manorial, forestal, or other rights hereby authorized to be sold, and for the committee or committees of any lunatic, the guardian or guardians of any infant, or the trustee or trustees for any feme covert, or other person under any incapacity, or the husband of any feme covert, which lunatic, infant, feme covert, or other incapacitated person shall

be owner of or beneficially interested in any such hereditaments as aforesaid for life, in tail, or in fee, either absolutely or determinable, by any deed or deeds, or instrument or instruments in writing, to raise any sum or sums of money for the purpose of purchasing such rent or rents, or manorial, forestal, or other rights, and paying the expences attending such purchase, by mortgage of the said hereditaments, either in fee simple, or for any term of years, or by sale of a sufficient part thereof, or otherwise, to charge and incumber the same with such sum or sums, and the interest thereof, in such manner as he or they shall think proper; and every such sale, mortgage, charge, and incumbrance shall be good and valid in the law against all tenants in remainder or reversion, and all other persons interested in or entitled to the premises so sold, mortgaged, charged, or incumbered, and all other persons entitled or to claiming any debt, charge, or incumbrance affecting the premises so sold, mortgaged, charged, or incumbered; and such mortgages, charges, and incumbrances shall have priority over all other debts, charges, and incumbrances on the same premises: Provided nevertheless, that if such purchase money shall exceed the sum of two hundred pounds the same shall not be so raised without the sanction of the Court of Exchequer in England, if the premises sold or incumbered shall be in England or Wales, or of the Court of Chancery in Ireland, if the premises sold or incumbered shall be in Ireland; which sanction the said courts are hereby respectively authorized to grant, upon petition, in a summary way or otherwise, as to the same courts respectively shall seem fit.

42. Commissioners may exchange Lands—Conveyances to be in form in the Schedule.—It shall be lawful for the said commissioners of woods, and they are hereby authorized and empowered, from time to time to exchange any part or parts of the possessions and land revenues of the crown, herein-before authorized to be sold, for any other lands, tenements, or hereditaments belonging to any person or persons, or body or bodies politic, corporate, or collegiate whomsoever, and for that purpose to enter into such contracts or agreements as to the said commissioners shall seem proper; and for the purpose of effecting any such exchange of any part or parts of the said possessions and land revenues of the crown to which this Act relates, of which the fee simple and inheritance shall be vested in his Majesty, it shall be lawful for the said commissioners of woods, on behalf of his Majesty, to convey to the person or persons, or body or bodies politic, corporate, or collegiate respectively, with whom the said exchange is proposed to be made, or in such manner as he or they shall direct or appoint, the part or parts of the said possessions and land revenues of the crown so proposed to be given in exchange on the part of his Majesty, and the fee simple and inheritance thereof; and every such conveyance by the said commissioners shall be attested, as to the execution thereof by the said commissioners, by at least one witness, and may be in the same form as that set forth in the schedule to this Act annexed for conveyances on sales of any parts of the said possessions and land revenues, or in any other form which may be found more convenient; and every such conveyance of the said commissioners shall be valid and sufficient to pass all the estate, right, and interest of his Majesty, in and to the part or parts of the said possessions and land revenues of the crown to which the same shall relate, to the person or persons, or body or bodies politic, corporate, or collegiate, therein named as the grantee or grantees for such estate or estates, to such uses, and upon and for such trusts, intents, and purposes, (if any,) as shall in and by such conveyance, or by reference therein to any other deed or instrument, be expressed or declared of or concerning the same; and the conveyance of the lands, tenements, or hereditaments to be received in exchange on the part of his Majesty, may be according to the form for that purpose set forth in the schedule to this Act annexed, or in any other form which to the said commissioners of woods may seem more proper; and the lands, tenements, or hereditaments so received in exchange shall, on the execution of the conveyances thereof respectively, become part of the possessions and land revenues of his Majesty, within the ordering and survey of the Court of Exchequer, and subject to the same provisions, powers, and authorities in every respect, including the powers and provisions in this Act contained, as the other possessions and land revenues of the crown to which this Act relates.

43. Power to exchange Freeholds for Lands held under any particular Estate, &c.—It shall be lawful for the said commissioners of woods, under the power of exchange herein-before given, to convey any part or parts of the said possessions and land revenues of the crown to which this Act relates, which shall be held in perpetuity

or otherwise, in exchange for any lands, tenements, or hereditaments held by the person or persons or body or bodies politic, corporate, or collegiate, with whom the exchange shall be made, for any particular estate or interest, or for any term of years, or to give any lease which may have been taken or purchased, under the powers herein-after given in exchange for any lands, tenements, or hereditaments held in perpetuity or only for any particular estate or interest, or for any term of years.

44. Power to give or receive Money for equality of Exchange—Application of Money received.—It shall be lawful for the said commissioners of woods to agree, on behalf of his Majesty, for the receipt or payment of any sum of money for equalizing any exchange to be made under the authority of this Act; and all sums of money so agreed to be received on the part of his Majesty shall be paid into the Bank of England or Bank of Ireland, or to the said commissioners, their receiver or agent, in the same manner as hereinbefore directed with regard to purchase monies on any sales by the said commissioners.

[*S.* **45** *rep.* 57 *&* 58 *Vict. c.* 43.]

46. Confirmation of invalid Leases, Sales, &c.—[*Recital*] In any case where a lease, sale, exchange, or grant heretofore made under the authority or supposed authority of any Act heretofore passed relating to the land revenues of the crown in England or Ireland shall be defective, void, or liable to be set aside by reason of the parties by whom the same shall purport to have been made not having been duly authorized to make the same, or by reason of any survey which ought to have been first made having been omitted to be made, or by reason of the conveyance, deed, or instrument by which such lease, sale, or exchange or grant shall have been made or effected not having been duly enrolled, or by reason of the provisions of the Act under which the same shall purport to be made not having been duly complied with, or by reason of such lease, sale, exchange, or grant not having been in fact authorized by such Act, or not having been within the provisions and within the true intent and meaning of such Act, or having been made after such Act shall in fact have been repealed, it shall be lawful for the commissioners of woods in case such lease, sale, exchange, or grant shall not be absolutely void, to confirm the same, either in whole or in part, and either absolutely or conditionally, and on such terms as to the said commissioners shall seem meet; or, in case such lease, sale, exchange, or grant shall be absolutely void, to make any lease or grant of the lands and hereditaments to which the same shall have related, or any of them, or any part thereof, for the purpose of giving to any person or persons, or body or bodies politic, corporate, or collegiate, an estate or interest therein not greater or more beneficial than the estate or interest which he, she, or they would have had under such prior lease, sale, exchange, or grant, in case the same had been valid.

47. Commissioners may take Leases.—It shall be lawful for the said commissioners of woods to take, on behalf of his Majesty, of and from any person or persons, or body or bodies politic, corporate or collegiate, any lease of any manors, messuages, lands, tenements, or hereditaments, for such period, at such rent, and with or without any fine, and subject to such covenants, conditions, and provisions, and on such terms, as to the said commissioners shall seem meet, and to enter into such contracts and agreements for that purpose as to the said commissioners shall seem proper.

48. And may purchase Leases.—It shall be lawful for the said commissioners of woods at any time to purchase, of and from any person or persons, or body or bodies politic, corporate, or collegiate, any lease or term of years which may be then subsisting of and in any manors, messuages, lands, tenements, or hereditaments, whether the same shall or shall not be a part or parts of the possessions and land revenues of the crown to which this Act relates, and to enter into such contracts and agreements for that purpose as to the said commissioners shall seem proper.

49. Commissioners may assign Leases taken or purchased to Trustees for his Majesty—Indemnity to Trustees.—In every case where any lease shall be taken by the commissioners of woods, on behalf of his Majesty, and in every case where any lease, not being a lease of any part or parts of the possessions and land revenues of the crown to which this Act relates, shall be purchased or taken in exchange by the said commissioners, on behalf of his Majesty, the said commissioners shall cause such lease to be granted or assigned, as the case may be, to such person or persons as the said commissioners shall think proper, as a trustee or trustees for his Majesty; and the commissioners of woods shall indemnify such trustees respectively, and their respective heirs, executors,

administrators, and assigns, of and from the rents and covenants in and by such leases respectively reserved and contained, and on the part of the lessees to be paid, observed, and performed.

50. Leases of Possessions or Land Revenues of the Crown purchased under the authority of this Act may be either merged in the Inheritance, or assigned to Trustees and kept on foot.—In every case in which any subsisting lease of any part of the said possessions and land revenues of the crown to which this Act relates shall be purchased or taken in exchange by the commissioners of woods, or shall have been contracted for under any of the Acts hereby repealed, it shall be lawful for the said commissioners either to cause the same to be surrendered to his Majesty, in order that the residue of the term for which such lease shall have been granted may merge in the inheritance and become extinguished, or to cause the same to be assigned to any person or persons as a trustee or trustees for his Majesty, in order that the same may be kept on foot distinct from the inheritance.

51. Leases purchased or taken may be sold or exchanged; how Sale shall be carried out.—The powers of sale or exchange herein-before given to the said commissioners of woods, shall extend to the enabling them to sell or exchange any lease which shall have been purchased or taken under the provisions herein-before contained, or which shall have been contracted for under any of the Acts hereby repealed, and shall not have been surrendered and merged; and whenever the said commissioners shall have contracted or agreed with any person or persons, or body or bodies politic, corporate, or collegiate, under the authority of this Act, for the sale to him, her, or them of any such lease, the purchaser or purchasers of such lease shall pay the purchase money in the same manner as herein-before directed with respect to any other part or parts of the said possessions and land revenues of the crown to which this Act relates; and the said commissioners of woods, on any sale of any such lease, shall, on the production of the receipt of the cashiers, or of one of the cashiers of the Bank of England or Bank of Ireland, for the purchase money, or, in case the same shall not amount to one hundred pounds, then either on the production of such receipt, or on the payment to them, their receiver or agent, of such purchase money, or, in case of an exchange, or the conveyance or assignment of the lands and hereditaments to be received in exchange being executed, cause the trustee or trustees in whom the said lease shall be then vested to assign the same to the purchaser or purchasers, or as he or they shall direct; and every such assignment shall be good, valid, and effectual, and the parties claiming under such assignment shall hold the said lease discharged from any trust for his Majesty; and the said commissioners shall in and by such assignment, or by any separate instrument, at the option of such purchaser or purchasers, in case of a sale, acknowledge the payment of the purchase money.

52. Commissioners may purchase Lands, &c. on behalf of the Crown.—It shall be lawful for the said commissioners of woods from time to time to contract for and purchase, for and on behalf of his Majesty, any manors, lordships, messuages, lands, tenements, or hereditaments in fee simple, or any copyhold lands or hereditaments the freehold of which shall be in the crown, or any rents, pensions, annuities, fuel rights, rights of common, or other charges, or rights, whether in fee simple or not, which shall be issuing out of or charged upon or extend over any of the possessions and land revenues of the crown to which this Act relates, which shall in their judgment be desirable to be purchased for and on behalf of his Majesty; and all such manors, lordships, messuages, lands, tenements, and hereditaments, rents, pensions, annuities, or other charges, so to be purchased, shall be conveyed or surrendered to his Majesty, and such conveyances may be either according to the form set forth in the schedule hereto annexed for the conveyance to his Majesty of lands, tenements, and hereditaments received in exchange, or in any other form which to the said commissioners of woods shall seem more proper; and all manors, lordships, messuages, lands, tenements, and hereditaments which shall be so purchased, and shall not become extinct by the conveyance or surrender thereof, shall, on the completion of the respective purchases thereof, become part of the possessions and land revenues of his Majesty, in right of the crown, and subject to the same provisions, powers, and authorities in every respect, including the powers and provisions in this Act contained, as the other possessions and land revenues of the crown to which this Act relates.

53. Incapacitated Persons empowered to sell.—It shall be lawful for all bodies

politic or corporate, ecclesiastical or civil, and for all trustees for the time being possessed of or entitled to any leases or terms of years, or any manors, lordships, messuages, lands, tenements, hereditaments, rents, pensions, annuities, or other charges or rights, which the commissioners of woods shall be desirous of purchasing under the powers herein-before given, and for all tenants for any interest short of an absolute interest therein, and for the guardians or guardian or committees or committee of any person interested therein who shall be an infant, lunatic, idiot, or otherwise incapacitated of acting for himself or herself, to contract and agree with the said commissioners of woods, for the absolute sale of such leases, terms, manors, lordships, messuages, lands, tenements, hereditaments, rents, annuities, pensions, charges, or rights, and to assign, release, convey, or surrender the same accordingly; and every such contract, agreement, assignment, release, conveyance, and surrender shall be as good, valid, and effectual in the law to all intents and purposes whatsoever as if the same were made by a person absolutely entitled to the property sold, and under no disability or incapacity.

54. In cases of Contracts with incapacitated persons, the Premises to be previously surveyed.—Provided always, that where any purchase shall be made from any body or bodies politic, corporate, or collegiate, or person or persons under any disability or incapacity as aforesaid, or not having power to sell, except under the provision herein-before contained, the value of the property purchased shall be ascertained by two able practical surveyors, one of whom shall be nominated by the commissioners of woods, and the other by the body politic or corporate, or person or persons, contracting or agreeing to sell the same; and if such two surveyors shall not agree in the valuation thereof, then by such third surveyor as the two so appointed shall for that purpose nominate; and each of the said two surveyors, if they shall agree in and make their valuation, or if not, then the surveyor so to be nominated by them as aforesaid, shall annex to their or his survey, estimate, or valuation, when completed, an oath, or (being one of the people called Quakers) an affirmation, to be subscribed by him, and taken before and certified by any justice of the peace or magistrate, in the same form and to the same effect as herein-before set forth for oaths or affirmations to be annexed to valuations made on any lease, sale, or exchange of any part of the said possessions and land revenues of the crown to which this Act relates; and the price or consideration to be paid or given for such purchase shall in no case be less than the sum at which the same shall be estimated and valued in such survey, estimate, or valuation as aforesaid.

55. Application of Purchase Money in cases of incapacitated persons when amounting to L.50.—Where any purchase shall be made from any body or bodies politic, corporate or collegiate, or person or persons under any disability or incapacity, or not having power to sell, except under the provisions herein-before contained, the purchase money, in case the same shall amount to the sum of fifty pounds, shall with all convenient speed be paid into the Bank of England, with the privity of the accountant general of the Court of Exchequer, if the property purchased shall be situate in England or Wales, or into the Bank of Ireland, with the privity of the accountant general of the Court of Chancery in Ireland, if the property purchased shall be situate in Ireland, to be placed to the account of such accountant generals respectively, ex parte the commissioners of woods, without fee or reward; and such money shall be applied, under the direction and with the approbation of the said courts respectively, to be signified by an order made upon a petition to be preferred in a summary way or otherwise, as to the said courts shall seem fit, in such manner as the said courts shall think just and equitable, for the benefit of the party or parties who shall have been interested in or entitled to such property; and in the meantime, and until the same shall be so applied, the said money shall, by order of the said Court of Exchequer or the said Court of Chancery, as the case may be, upon application thereto, be invested by the said accountant general in his name in the purchase of three pounds per cent. consolidated or three pounds per cent. reduced bank annuities; and the dividends and annual produce of the said consolidated or reduced bank annuities shall from time to time be paid, by order of the said court, to the person or persons who would for the time being have been entitled to the rents and profits of the property sold; but such money, in case the same shall not amount to the sum of fifty pounds, shall be applied in such manner as the said commissioners of woods shall think fit, for the benefit of the party or parties who shall have been interested in or entitled to such property.

56. Persons in possession deemed entitled to the Premises until the contrary

SHALL BE SHOWN.—Provided always, that where any question shall arise touching the title of any person to any money to be paid into the Bank of England or Bank of Ireland in the name and with the privity of the accountant general of the Court of Exchequer or Court of Chancery, pursuant to the directions of this Act, or to any bank annuities to be purchased with any such money, or the dividends or interest of any such bank annuities, the person or persons who shall have been in possession of the property so purchased at the time of the purchase shall be deemed to have been lawfully entitled to such property, according to such possession, until the contrary shall be shown to the satisfaction of the said Court of Exchequer or Chancery; and the dividends or interest of the bank annuities to be purchased with such money, and also the capital of such bank annuities, shall be paid, applied, and disposed of accordingly, unless it shall be made appear to the said court that such possession or receipt was wrongful, and that some other person or persons was or were lawfully entitled to such property.

57. COMMISSIONERS OF WOODS, &C. MAY APPLY ANY PART OF THE LAND REVENUES TO THE REDEMPTION OF THE LAND TAX—SAVING FOR 42 GEO. 3, C. 116.—It shall be lawful for the said commissioners of woods, and they are hereby empowered, from time to time, to redeem the land tax charged on any part or parts of the possessions and land revenues of the crown to which this Act relates, and to purchase any land tax on any part or parts of the said possessions and land revenues which may have been redeemed or at any time hereafter shall be redeemed by any other person or persons: Provided always, that this provision shall not be construed as authorizing any person or persons to purchase or redeem the land tax charged on any lands or tenements belonging to the crown, contrary to the provisions of an Act passed in the forty-second year of the reign of his late Majesty King George the Third, intituled "An Act for consolidating the "provisions of the several Acts passed for the redemption and sale of the land tax into "one Act, and for making further provision for the redemption and sale thereof; and "for removing doubts respecting the right of persons claiming to vote at elections for "knights of the shire and other members to serve in Parliament, in respect of messuages, "lands, or tenements, the land tax upon which shall have been redeemed or purchased."

58. COMMISSIONERS INVESTED WITH THE POWERS GIVEN BY LAND TAX REDEMPTION ACT TO THE SURVEYOR GENERAL OF LAND REVENUES.—All the powers which by the last before-mentioned Act are given to the surveyor general of the land revenues of the crown, for the purpose of enabling him to redeem the land tax charged on the manors, messuages, lands, tenements, rents, and other revenues of the crown within the survey and receipt of the Exchequer for the time being, shall be and the same are hereby vested in the said commissioners of woods; and all the provisions in the said Act contained, which apply to the said surveyor general, shall apply to the said commissioners, as fully and effectually, to all intents and purposes, as if the said commissioners had been named in the said Act instead of the said surveyor general.

59. BUT ALL SALES OF LAND TO RAISE MONEY FOR REDEMPTION OF THE LAND TAX CHARGED ON ANY CROWN LANDS SHALL BE MADE UNDER THE AUTHORITY OF THIS ACT.—Provided nevertheless, that no sale shall be made under the authority of the said last-mentioned Act of any manors, messuages, lands, tenements, rents, tithes, mines, minerals, collieries, woods, woodgrounds, fens, marshes, waste lands, or other hereditaments belonging to the crown within the survey of the Exchequer, for the purpose of raising money for the redemption of the land tax charged upon any manors, messuages, lands, tenements, tithes, rents, or other premises of the crown, it being intended and hereby declared that all sales which shall be made of any part or parts of the possessions or land revenues of the crown to which this Act relates, for raising money for the redemption of land tax, or for any other of the purposes to which the monies to arise from such sales is hereby directed to be applied, shall be made under the powers and provisions of this Act and of no other.

60. SALES, &C. TO BE MADE UNDER WARRANT FROM THE TREASURY.—Provided always, that no purchase or sale, except any purchase or sale where the purchase money shall not exceed one hundred pounds, and no exchange, lease, or grant, shall be made by the said commissioners of woods, under the powers of this Act, without the previous authority of the Treasury, to be signified by some warrant: Provided nevertheless, that such authority may be given either generally for any particular class of cases, or for any particular purchase, sale, exchange, lease, or grant, and either with or without any condition or restriction, as to the Treasury may seem meet.

61. Survey to be made previously to any Lease, Purchase, Sale, or Exchange—Surveyor's Oath.—Provided also, that before the making or entering into any agreement for making any lease, or the making of any purchase, sale, or exchange, by the said commissioners of woods, under the powers herein-before contained, a survey of the part or parts of the possessions and land revenues of the crown proposed to be leased, sold, or given in exchange, where the same shall be capable of such survey, and an estimate of the value thereof, and also, in the case of a purchase or an exchange, a like survey and estimate of the lands, tenements, or hereditaments proposed to be purchased or received in exchange, shall be taken and made by such able and practical surveyor or surveyors as shall be named for that purpose by or under the order and direction of the said commissioners of woods, and the said surveyor or surveyors shall certify, by a report in writing under his or their hand or hands, what in his or their judgment is the true and fair worth or value of the lands, tenements, or hereditaments to be by them surveyed and valued; and every person who shall be employed to make any survey or estimate as aforesaid shall annex to his survey and estimate an oath (or, being of the people called Quakers, an affirmation) taken and subscribed by him before any one of the said commissioners of woods, or any justice of the peace or magistrates, the form whereof shall be as follows:

'I A.B. do swear [or, being a Quaker, do solemnly affirm], that the survey and estimate, 'or account, hereto annexed, was faithfully and impartially made by me; that the 'value of the property therein contained is justly estimated therein, according to the 'best of my skill and judgment; and that all the particulars stated in the said survey 'or estimate, or account, are true, to the best of my knowledge and belief.

'So help me GOD.'

62. Cases in which Surveys may be omitted.—Provided always, that where, from the nature of any lands, tenements, or hereditaments which shall be so proposed to be leased, purchased, sold, or given, or received in exchange, or from any circumstances relative thereto, the worth or value thereof cannot be known or ascertained by the means of a survey or inspection thereof, or where the value of such lands, tenements, or hereditaments shall be previously known to be so small or inconsiderable that it shall not be deemed expedient to incur the expence of taking a survey thereof, or when such lands, tenements, or hereditaments, being in Ireland, shall have been previously surveyed and valued by order of and under the direction of any commissioners appointed by the lord lieutenant of Ireland to inquire into the state of the crown lands in Ireland at any time since the year one thousand eight hundred and twenty, and a report of such survey and valuation shall have been made on oath, and shall, previously to such lease, agreement, purchase, sale, or exchange being made, have been deposited in the office of the said commissioners of woods, then and in any such case it shall be lawful for the said commissioners to make such lease, or enter into any agreement for such lease, or to make such purchase, sale, or exchange, without causing such survey or estimate as aforesaid to be previously made.

63. Enrolment of Deeds relating to Lands, &c. in England or Wales.—All deeds or instruments whereby any estates, manors, lordships, messuages, lands, tenements, or hereditaments in England or Wales shall be hereafter purchased, sold, leased, or exchanged, under the authority of this Act, shall, within six months after the date of such deeds or instruments respectively, be enrolled . . . in the office of the commissioners for auditing the public accounts; . . . . . .

S. 63 *in part rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).

[*Ss.* **64–68** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

69. Enrolment in Court Rolls of Sales of Copyholds for the purpose of Enfranchisement, and of Manorial Rights belonging to the Crown.—Provided always, that whenever, under the powers of sale herein-before given, the freehold of any copyhold or customary tenement parcel of or holden of any manor belonging to the crown shall be sold by the commissioners of woods for the purpose of enfranchising such copyhold or customary tenement, or any manorial rights parcel of any manor belonging to the crown shall be sold by the said commissioners, the deed or instrument by which such sale shall be effected shall not only be enrolled in the court rolls of the manor of or to which such copyhold or customary tenement or such manorial rights shall have

been parcel or appurtenant, by the steward of such manor, or his lawful deputy, who is hereby required forthwith to enrol such deed or instrument, upon the production thereof to him; and such steward or deputy stewards, having enrolled the said certificate and receipt, or other instrument as aforesaid, shall attest the same under his hand and return the same to the purchaser or purchasers.

[*Ss.* **70–72** *apply to Ireland exclusively.*]

73. Lessees, Purchasers, &c. not bound to see that the provisions of the Act have been complied with.—No person, or body politic, corporate, or collegiate, claiming under any deed or instrument by which any lease, sale, or exchange or grant shall be made or purport to be made by the commissioners of woods, under the authority of this Act, and shall be duly enrolled under the provisions herein-before contained, shall be bound to enquire whether the said commissioners shall have been duly authorized by the Treasury to make the same or not, or whether the survey herein-before directed to be made shall have been actually made or not, or whether in cases of sales, exchanges, or leases in Ireland, a duplicate of the conveyance, deed, or instrument by which such sale, exchange, or lease shall have been made or effected shall have been duly transmitted to Ireland, pursuant to the provisions of this Act, or whether the provisions of this Act in other respects shall have been duly complied with or not, or whether such lease, sale, exchange, or grant shall have been in fact authorized by this Act or not, or whether it shall or not have been within the provisions and within the true intent and meaning of this Act; but every deed or instrument by which any lease, sale, exchange, or grant shall purport to be made under the authority of this Act shall, after the same shall have been duly enrolled, pursuant to the provisions herein-before contained, be good, valid, and effectual, as against his Majesty, for the purposes for which the same shall have been executed.

74. Nor to be answerable for Application of Purchase Money.—And to prevent any question as to the liability of purchasers and other persons paying money under the authority of this Act, be it further enacted, that no person, or body politic, corporate, or collegiate, paying any sum of money under the authority of this Act, or in pursuance of any provision herein contained, shall be bound to see to the application or be answerable for the misapplication or nonapplication of the money so paid by him, her, or them.

[*S.* **75** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

76. Fees on Searches, &c. to continue to be paid to Commissioners, and accounted for.— . . . The fees now paid to the commissioners of woods, upon the assignment of leases, and upon searches for such copies of leases, grants, or other documents, shall continue to be paid to them and their successors, and shall be accounted for and applied in the same manner as other monies arising from the annual income of the possessions of land revenues of the crown to which this Act relates.

S. 76 *in part rep.* 53 *&* 54 *Vict. c.* 33 (*S.L.R.*).

77. Conveyances, &c. to be free from Stamp Duty.—No memorandum, contract, or agreement, to be made or entered into by or with the commissioners of woods, under the powers and provisions of this Act, for the sale, purchase, or exchange of any estates, manors, lordships, messuages, lands, tenements, rents, or hereditaments, or any term or interest therein, by the said commissioners of woods; nor any deed, receipt, or other instrument which shall be given, granted, entered into, executed, or made for the purpose of carrying into effect any sale, purchase, or exchange to be made by the said commissioners of woods, under the powers and authorities of this Act, or which shall be incidental to or connected with any such purchase, sale, or exchange; nor any grant by the said commissioners under the authority of this Act; nor any lease, or contract or agreement for any lease or leases, nor any counterpart of any lease, to be entered into, made, executed, or granted under the powers and authorities of this Act; nor any appointment of officers to be made by the said commissioners under the authority hereof; nor any certificate for any gamekeeper appointed or to be appointed under the authority of this Act; nor any bond to be given by or for any receiver, as herein-after mentioned, or by or for any other officer or agent, from or for whom security may be required by the said commissioners; shall be subject or liable to any ad valorem or other

stamp duty whatsoever imposed by any Act or Acts now in force, nor to any ad valorem or other stamp duty to be imposed by any future Act or Acts, unless the same be specially subjected thereto in and by such future Act or Acts.

78. No Auction Duty on Sales.—No auction duty shall be payable in respect of any sale by auction by the said commissioners of woods, of any part or parts of the possessions or land revenues of the crown, under the powers and authorities of this Act, or of any building materials, or any other goods, chattels, or effects, on behalf of the crown; but every such sale, and the lands and hereditaments or other property or effects so sold, and the auctioneer or auctioneers, so far as respects any such sale, shall be wholly exempt from all rates or duties imposed on sales by auction by any Act or Acts now in force, and from all rates and duties to be imposed by any future Act or Acts, unless the same shall be specially subjected thereto by such future Act or Acts.

[*S.* **79** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

80. Receivers in England to be Land Surveyors, and resident within the Districts for which they are appointed.—Every person who shall be appointed a receiver of the issue, revenues, and profits of the possessions and land revenues of the crown to which this Act relates, for any county, hundred, district, or division in England or Wales, (except in London or Middlesex,) shall be by profession a surveyor of lands or land steward, and accustomed to act as such, or otherwise skilled in the management and cultivation of lands, and competent to the superintendence thereof; and every receiver already appointed or to be appointed under this Act shall be resident within the county, hundred, division, or district, or one of the counties, hundreds, divisions, or districts, if his appointment doth or shall extend to more than one, in or for which he has been or shall be so appointed to act as receiver, and not elsewhere, unless the said commissioners of woods shall think it expedient to dispense with such residence; and in case any receiver to be appointed as aforesaid, or any receiver already appointed as aforesaid, for any county, hundred, district, or division in England or Wales, shall cease to reside as aforesaid in any parts of the county, hundred, district, or division, or of any one of the counties, hundreds, districts, or divisions, in or for which he has been or shall have been so appointed to act as receiver as aforesaid, without such dispensation as aforesaid, his appointment as such receiver shall immediately thereupon cease, determine, and be void, but without prejudice to any party by whom any money may have been paid to him bonâ fide, and without actual knowledge of his appointment having so ceased.

81. Receivers to account to Commissioners of his Majesty's Woods, Forests, and Land Revenues.—All receivers appointed and to be appointed of the issues, rents, and profits of any of his Majesty's woods, forests, and land revenues to which this Act relates, shall from time to time, and at such times as they shall respectively be required so to do by the commissioners of woods, render accounts to the said last-mentioned commissioners of all monies received by them respectively, and of all other acts, matters, and things done by them respectively, on account of or in relation to the said possessions and land revenues of the crown; and the said accounts shall be tried and examined by the said last-mentioned commissioners, and shall from time to time be incorporated with and form part of the accounts of such commissioners to be from time to time audited and passed in the manner herein-before directed; and when the accounts of the said receiver, incorporated as aforesaid, shall have been so audited and passed, the receipts of the said commissioners of woods, for the balance of such accounts, shall be good and effectual discharges to the said receivers respectively.

82. Commissioners to take Verifications or Examinations upon Oath.—It shall be lawful for the said commissioners of woods, or any one of them, and they are hereby respectively authorized, to receive a verification and take an examination upon oath touching and concerning any account, survey, estimate, report, or other matter or thing relating to the said possessions and land revenues of the crown to which this Act relates, or to direct such verification to be made before any justice of the peace or magistrate.

83. Penalty on Receivers taking False Oaths.—If any receiver, deputy, or accountant, or other person, shall in such verification or examination upon oath as aforesaid be guilty of wilful and corrupt perjury, or shall wilfully false-swear himself in regard to any of the matters aforesaid, such person so offending shall be liable to be

punished in such manner as is provided by the laws and statutes now in force for the punishment of wilful and corrupt perjury.

84. Receivers to transmit all Sums received monthly, or any sum exceeding L.500 at once—Receivers keeping monies in hand to be charged with Interest.—Every receiver appointed or to be appointed as aforesaid shall at the end of every month (unless otherwise directed by the said commissioners of woods,) transmit all sums received by him during the month to the said commissioners; and every such receiver who shall at any time have received or got into his hands any sum of money belonging to the crown exceeding the sum of five hundred pounds shall, unless he shall have previously received instructions to the contrary from the commissioners of woods, forthwith transmit the same to the said commissioners; and in case any receiver shall have so got into his hands any sum exceeding the sum of five hundred pounds, and shall not forthwith transmit the same to the said commissioners, or apply or dispose of the same in such other manner as he shall have been directed to do by the said commissioners, shall be charged and chargeable with interest for every such sum after such rate, not exceeding the rate of ten pounds for every one hundred pounds by the year, as the said commissioners shall in that behalf appoint, from the day or time, days or times, at which it shall have been so received, until it shall be transmitted by him to the said commissioners, or paid over by him in the manner by them directed.

85. Receivers to give Security.—Every person so to be appointed a receiver as aforesaid shall, before he shall exercise or execute the said office, or in anywise intermeddle in the exercise or execution thereof, enter into such bond or obligation, in such penalty, and with such sureties, as the commissioners of woods shall direct or require, for the faithfully answering and accounting for the rents, issues, and profits to be by him received by virtue of such his appointment, and for the doing, executing, and performing all such services and duties as are hereby required, or shall by the said commissioners be from time to time directed or required to be done or performed in relation to such office as aforesaid; and every such bond shall have the effect of a statute staple to his Majesty, for the answering and payment of all and every sum or sums to become payable by virtue thereof; and every bond so given by any receiver shall, as soon as conveniently may be after the execution thereof, be enrolled in the office of the auditor of his Majesty's land revenues; and every such bond shall be deposited and kept in the office of the said commissioners of woods.

[*Ss.* **86–89** *apply to Ireland exclusively.*]

90. Receivers empowered to distrain for Rent.—It shall be lawful for every person who hath been or shall be so appointed a receiver of the issues, revenues, and profits of the possessions and land revenues of the crown to which this Act relates, and he is hereby authorized and empowered, by virtue of such his appointment, alone and without any further order, warrant, or authority whatsoever, by himself or any person whom he shall for that purpose depute, to make any distress or distresses for any rent or rents which shall be due, in arrear, or unpaid, from any lessee or lessees, occupier or occupiers, tenant or tenants, of any of the estates or possessions which shall be in the collection, receipt, or management of such receiver, or from any person or persons liable to the payment of any quit rent or other rent within the collection, receipt, or management of such receiver, and the goods, chattels, and effects so distrained to impound, sell, and dispose of; and all sheriffs, mayors, justices, bailiffs, constables, headboroughs, and other officers and ministers of justice, are hereby directed and required to be aiding and assisting such receiver or his substitute in the making such distress or distresses, and the impounding, selling, and disposing of the goods, chattels, or effects so to be taken or distrained, or in all other matters relating thereto, or to the execution of the said office, as occasion shall require: Provided always, that every such receiver shall and he is hereby required, in making or causing to be made any such distress, and in relation to any question or questions at law or otherwise which may arise thereupon, to obey and conform to all such orders and regulations as shall be given him in that behalf by the said commissioners of woods.

91. Crown Lessees and Tenants in arrear to pay Interest.—If any lessee or lessees, occupier or occupiers, tenant or tenants of any part of the possessions or land revenues of the crown to which this Act relates, the annual rent whereof payable to the crown shall exceed the sum of fifty pounds, shall be in arrear for, or hold in his, her, or

their hands or custody, any rent or rents, or mesne profits or other profits or produce due or belonging to the crown, arising from any part of such possessions or land revenues, for the space of three calendar months after he, she, or they shall have been applied to, either personally or by letter from the receiver authorized and empowered to receive the same, for the payment thereof, without paying over the same to such receiver, then and in such case every such person liable to the payment of and who ought to have paid the same shall be charged and chargeable with interest for such arrear, to be calculated after the rate of five pounds for every one hundred pounds by the year, upon the sum or respective sums so in arrear, from the day or time or respective days or times upon or at which the same became due, up to the day or time upon or at which the same shall be actually paid; and such interest shall and may be added to the rent or mesne profits or other profits or produce so in arrear as aforesaid, and shall be recovered and received by the same ways and means as rents are by this Act made recoverable, together with all costs and expences to be sustained or incurred in or about the recovery thereof.

92. Commissioners empowered to give Notices, make Claims, and authorize Entries, &c.—It shall be lawful for the said commissioners of woods, and they are hereby authorized and empowered, to give any notice, make any claim or demand, and to depute or authorize any person or persons to make an entry, which shall be requisite or expedient to be given or made, by or on behalf of his Majesty, with a view either to compel any tenant, lessee, or occupier of any part or parts of the said possessions and land revenues of the crown to which this Act relates to quit or deliver up the possession thereof, or to compel the performance of any covenant, contract, or engagement in relation thereto, or to recover possession on nonperformance of any covenant, contract, or agreement, or to compel the payment of any sum of money which ought to be paid in respect thereof, and to give any other notice, make any other claim or demand, and depute any person or persons to make any other entry, which shall or may be requisite or expedient to be given or made, by or for or on the behalf of his Majesty, touching any of the said possessions or land revenues; and every such notice, claim, or demand which shall be given or made in writing under the hands of the said commissioners of woods, or any two of them, for any of the purposes aforesaid, and every entry which shall be made by any person or persons deputed or authorized by the said commissioners to make the same, on behalf of his Majesty, into or upon any of the said estates or possessions, shall be good, valid, and effectual to all intents and purposes whatsoever, and shall have such and the like force and effect as if the same were respectively given or made by his Majesty; and all such notices, claims, demands, or entries shall respectively be deemed, construed, and taken to have been given and made by or on behalf of his Majesty, any law, custom, or usage to the contrary in anywise notwithstanding.

93. Power to Commissioners to compound for Rent, &c.—It shall be lawful for the said commissioners of woods, with the consent and approbation of the Treasury, in any case where it shall seem to the said commissioners of woods expedient so to do, to make any composition or agreement with any person or persons for any arrears of rent or rents which may be due or owing to his Majesty, in respect of any part or parts of the said possessions and land revenues of the crown to which this Act relates; and from and after the payment of any sum or sums of money so agreed upon, his Majesty shall be barred from suing for or in any manner recovering any such arrears of rent so compounded for as aforesaid, any Act, law, or usage to the contrary notwithstanding.

94. Disputes respecting Boundaries, &c. to be settled by Arbitration—Enrolment of Reference and Award.—In case any dispute, doubt, or difference shall at any time hereafter arise between the commissioners of woods, and any other person or persons whomsoever, touching or concerning the boundaries, extent, or amount of any of the lands, tenements, possessions, rents, or land revenues of the crown to which this Act relates, or any right of common, right of way, or other right or easement whatsoever claimed or to be claimed in respect of or as appurtenant to, or in, over, upon, or out of, the same lands, tenements, possessions, rents, and land revenues, or any of them respectively, or otherwise howsoever in respect of or in relation thereto, then and in every such case, and so often as the same shall happen, it shall and may be lawful to and for the said commissioners of woods, by and with the consent and approbation of the Treasury, to join and concur with the person or persons with whom any such dispute, doubt, or difference shall arise as aforesaid, in referring the same to the arbitration, or arbitration and umpirage, of such one or more person or persons, and upon such terms

and in such manner, in all respects, as they the said commissioners of woods, by and with such consent as aforesaid, shall think fit; and for that purpose to make, sign, seal, and enter into such agreement or other contract for reference, for and on behalf of his said Majesty, as may be deemed advisable, and to perform the award to be made in pursuance of any such reference: Provided always, that every such submission to arbitration or the agreement or other contract for the same, and the award to be made in pursuance thereof, or a duplicate of the same respectively, shall, within three calendar months from the date of each such award, be enrolled in the office of his Majesty's auditor or acting auditor or auditors of the land revenues for the time being in England and Wales, or in the before-mentioned Office of Record in Ireland, as the case may be, and when so enrolled shall be binding and conclusive on his said Majesty, and other the party or parties to each such reference respectively, his, her, or their heirs, executors, administrators, and assigns; and that such enrolment shall at all times be good and sufficient evidence of such submission, agreement, or other contract and award respectively, and of the making, signing, sealing, or executing of the same, and of the contents thereof respectively, and be received as such evidence in all courts of law and equity whatsoever.

95. On abolition of the Offices of Wardens, Chief Justice, and Justices in Eyre, the powers thereof to vest in First Commissioner.—And whereas by the said recited Act of the fifty-seventh year of the reign of his late Majesty King George the Third,[1] intituled "An Act to abolish the offices of the wardens, chief justice, and justices "in eyre north and south of Trent," it was enacted, that upon the termination of the then existing interests in the respective offices of wardens, chief justice, and justices in eyre of his Majesty's forests, chases, parks, and warrens north and south of Trent respectively, the same should be abolished: Be it further enacted, that from and after such abolition all the respective powers and authorities belonging to the said offices respectively shall, upon the ceasing of such offices respectively, become vested in the first commissioner of woods, without any special or other appointment for that purpose; and every such first commissioner shall and he is hereby empowered and required to perform all the duties belonging to the said offices respectively; but such first commissioner shall not have, take, or receive any salary, fee, or emolument whatsoever in respect thereof.

[1] 57 *Geo.* 3, *c.* 61.

96. Power to grant Leases by way of Compensation to parties relinquishing old Encroachments on the Royal Forests.—[*Recital*] In all cases of purprestures or encroachments in any of the royal forests, which purprestures or encroachments shall appear to have been enclosed or used and occupied by the person or persons then in possession thereof, or by any person or persons under whom the same are respectively claimed to be held, without any effectual interruption by or on the part of his Majesty for any period not less than ten years, it shall be lawful for the said commissioners of woods, to make satisfaction or compensation in money, in consideration of the removal, abatement, or resumption of any such encroachment or purpresture, or to grant to the person or persons in possession of such encroachment or purpresture a lease for any term not exceeding three lives or thirty-one years, either of such encroachment or purpresture, or any other part or parts of the forest in lieu thereof, as to the said commissioners shall under the circumstances of the case appear reasonable and proper; provided that there shall be reserved in every such lease such annual rent or rents, to be paid to his Majesty, as under all the circumstances of the case shall by the said commissioners of woods be deemed reasonable and proper.

97. Power to grant Leases of Forests for making Railways, and working Stone, Slate, Coal, &c.—Saving for Rights of Companies under 49 Geo. 3, c. clviii., 49 Geo. 3, c. clix.—It shall be lawful for the said commissioners of woods to grant any lease, for any term not exceeding thirty-one years, of any part of the royal forests, for the purpose of making any railway, tramroad, or inclined plane, or for erecting any steam engine or other works or machinery, with a licence in such lease to make or erect the same, and to raise, get, and carry away any stone, slate, coal, ore, or marl, in any of the royal forests, under such modifications and restrictions, for such yearly rent, and upon such terms and conditions, as to the said commissioners of woods may seem expedient: Provided always, that no such lease or licence for the purpose of making such railway, tramroad, or inclined plane, or of erecting such steam engine or other works or

machinery, shall be granted in any case where the use of the same would interfere with or in any way abridge or prove inconsistent with the exercise of the rights vested in either of the companies established by two Acts passed in the forty-ninth year of the reign of his late Majesty King George the Third, the one intituled "An Act for making "and maintaining a railway or tramroad from the summit of the hill above Churchway "Engine, in the forest of Dean in the county of Gloucester, to a certain place in the "said forest called Cinderford Bridge;" the other intituled "An Act for making and "maintaining a railway from the river Wye, at or near to a place called Lidbrook, in "the parish of Ruardean in the county of Gloucester, to or near a place called Lower "Forge, below Newern, in the parish of Lydney in the said county, and for making "other railways therein mentioned, in the forest of Dean, in the county of Gloucester;" without the previous consent and concurrence of the companies incorporated under the said Acts.

98. Commissioners may contract for the sale or exchange of Lands in Royal Forests not suited for Timber where intermixed with the Lands of others, and of Forestal and other Rights.—It shall be lawful for the said commissioners of woods, and they are hereby authorized and empowered, from time to time to contract and agree with any person or persons, or body or bodies politic, corporate, or collegiate, for the sale or exchange of, and absolutely to dispose of, either by way of sale for such sum or sums of money as to them shall appear a sufficient consideration for the same, or by way of exchange for any other lands or hereditaments, with or without giving or receiving any sum of money for equality of exchange, any part or parts of the said possessions and land revenues of the crown to which this Act relates which shall consist of any parcels of land in any of the royal forests which are or may be wholly or in part surrounded by, intermixed with, or contiguous to, other lands not the property of the crown, and which parcels of land shall not be suited for the growth of timber, or any waste or other lands in any of the royal forests which shall not exceed in value in any one instance the sum of one thousand pounds, or of any rights or interests which his Majesty now hath, or which he may have, over parcels of land in any of the royal forests, the property of any of his Majesty's subjects, and which rights and interests shall be considered as of little value to the crown, or of any rights of forest, free chase, and free warren in or belonging to any of the royal forests, extending over the lands of any of his Majesty's subjects, independent of and not being appurtenant to any existing manor or lordship; and every such sale and exchange shall be carried into effect in such and the like manner as is herein-before directed with respect to other parts of the land revenues of the crown to which this Act relates.

99. Leases of parts of the Forests to be in the form in the Schedule.—All leases which shall be granted by the commissioners of woods, under the authority of this Act, of any part of the royal forests, may be either according to the form for that purpose set forth in the schedule to this Act annexed, or in any other form which to the said commissioners may seem more expedient.

100. Unlawful Inclosures, &c. in the Royal Forests to be inquired of by the Verderers in Courts of Attachment, and the Persons making the same fined, and the Inclosures abated.—[*Recital*] All unlawful enclosures, purprestures, encroachments, and trespasses which shall have been wilfully made or caused or procured to be made by any person or persons in and upon any of the royal forests, or shall be wilfully held, occupied, and made use of by any person or persons subsequently occupying or claiming the same, (save and except such as have been demised or sold, or in respect of which any treaty for a demise or sale shall or may be pending, under the provision for that purpose herein-before contained, between the said commissioners of woods, and the party or parties who shall be pretended owners or actual occupiers thereof,) shall and may be inquired of by the verderers of the respective forests within which such unlawful inclosures, purprestures, encroachments, or trespasses shall have been made, in the courts of attachment of the said forests respectively; and the person or persons guilty of making, continuing, and renewing any such unlawful inclosure, purpresture, encroachment, or trespass, save as aforesaid, shall and may be prosecuted for the same in the said court or courts; and upon proof being made thereof on the oath of one credible witness, the verderers of the said respective forests, or any two of them present at the said court or courts, shall have power and they are hereby authorized to fine any person or persons so offending, for every such offence, any sum not exceeding twenty pounds,

to be recovered and applied in manner herein-after provided for, and to order and direct every such unlawful inclosure, purprestur, encroachment, and trespass (save as aforesaid) to be abated by the regarders, under foresters, under keepers, or other officers of the said forests respectively, who are hereby authorized and empowered to abate the same accordingly: Provided nevertheless, that in case it shall be insisted upon by any person or persons who shall be proceeded against in any of the said attachment court or courts as herein-before directed, that the place wherein the inclosure, purprestur, encroachment, or trespass shall have been or shall be alleged to have been made was not within the boundaries of any of the said forests, or within the lands belonging to his Majesty within the same, the said verderers shall not proceed to conviction, but shall certify the presentment of such offence to his Majesty's attorney general, to the end that such proceeding may be had therein by information of intrusion, or otherwise, as by law might have been had before the passing of this Act.

101. The Verderers may appoint Officers for executing the orders of the Court; and fix Fees.—It shall be lawful for the verderers of any of the said forests, or any two of them, at any court of attachment holden for any of the said forests, by warrant or warrants under their hands and seals, to nominate and appoint any person or persons to be the officer or officers of the said court or courts, forest or forests, for the purpose of executing the judgments and orders of the said court or courts from time to time given and made; and the person or persons so appointed shall, during the time mentioned in such warrant or warrants, or until the same shall be recalled, or their appointment or appointments revoked by the said verderers, have full power and authority to execute the judgments and orders of the said court or courts within the said respective forests, in such and the same manner and by such and the same means as any constable or other peace officer can or may by law execute the warrant of any justice of the peace for any county; and the said verderers, or any two of them, shall and may fix and allow such fees to be paid to or taken by such officer and officers as the said verderers shall in their discretion think fit.

102. Court of Attachment may inquire into the conduct of the Regarders and other Officers of the Forest, and for neglect of duty may fine them.—It shall be lawful for the verderers of any of the said forests, or any two of them, at any court of attachment to be holden for any of the said forests, to inquire into the conduct and behaviour of the regarders, under foresters, under keepers, or other officers of the said forests, in their said offices; and if the said verderers shall find that any regarder, under forester, under keeper, or other officer shall have wilfully omitted to perform the duty of his office in preventing purprestures and encroachments, or in any other respects, it shall be lawful for the verderers of any of the said forests, or any two of them, (having due proof made before them on oath of any such wilful neglect, omission, or default,) and they are hereby authorized, to set and impose a fine, not exceeding the sum of ten pounds, on such regarder, under forester, under keeper, or other officer, for every such his wilful act, neglect, omission, or default, to be recovered and applied as herein-after mentioned.

103. Act not to prevent proceeding by ordinary course of law.—Provided always, that nothing herein contained shall extend or be construed to extend to prevent his Majesty from proceeding by information in his Court of Exchequer, or from having recourse to any other law which may now exist, for the punishment of offences of the nature herein-before mentioned, in all cases where such proceedings shall be deemed more advisable than those which are authorized by this Act.

104. Penalties not directed to be recovered before the Verderers, may be recovered before a Justice—Penalties before Verderers or Justices not paid may be levied by distress and committal.—All pecuniary penalties herein-before imposed in respect of any offences in the royal forests, and not herein-before directed to be recovered before the verderers of any of the said forests in the said courts of attachments, shall and may be recovered in a summary way before any justice or justices of the peace for any county, riding, division, or place, in which the person having incurred the same shall happen to be; and in case any penalty recovered before any justice or justices of the peace, or before the verderers of any of the said forests, or any two of them, or in the said courts of attachments, or any fine set or imposed by the said verderers or any two of them, or the said courts, shall not be paid forthwith, it shall be lawful for the justice or justices, or verderers, or the said courts, by whom such fine shall be set or

imposed, or before whom such penalty shall be recovered, by warrant under his hand and seal or their hands and seals, and directed by such justice or justices to any constable or other peace officer, and by the said verderers or courts to the proper officer or officers to be appointed for any of the said forests in the manner herein-before provided, to cause such fine or penalty to be levied by distress and sale of the offenders goods and chattels, together with all costs and charges attending such distress and sale; and in case no sufficient distress can be had or made, such justice or justices, verderers or courts, shall, if he or they shall think proper, commit the offenders to the common gaol or some house of correction within such county, riding, division, city, town, or place as aforesaid, there to remain without bail or mainprize for any time not exceeding six months.

105. Application of Penalties.—All the said penalties shall, when recovered, be, by the verderers or other person or persons receiving the same, forthwith paid over to the under steward of the forest in which the same shall have been incurred, and be applied in defraying the expences attending the execution of any laws relating to the said forest, as the verderers of the said forest, or any two or more of them, shall, at a court of attachments of the said forest, direct.

106. Gravel, &c. not to be taken from Forests without consent of Commissioners.—It shall not be lawful for any surveyor of any turnpike road or any highway, or for any other person, to dig, get, or carry away, or cause to be dug, got, or carried away, any stone or gravel or other materials whatever, for the making or repairing of any road or way, or for any other purpose, in or from any of his Majesty's forests, woods, or woodlands, without the consent in writing of the commissioners of woods, for that purpose first had and obtained.

107. Application of Monies to arise from Sales, &c. in the Forests.—All sums to be received under the authority of this Act, for or in respect of any sales, exchanges, or leases in any of the royal forests, shall be applied in the payment of the purchase monies on the purchase of any rights of common, fuel rights, or other rights, or of any lands or other hereditaments, in the said royal forests, which may be purchased under the authority of this Act, and in payment of the monies to be paid for equality of exchange on any exchange in any of the royal forests which may be made under the authority of this Act, and of the expences of the said commissioners of woods, in or relating to such purchases and exchanges, and in the payment of any monies which may be agreed to be paid by way of compensation for the relinquishment of purprestures and encroachments in any of the said royal forests, and subject thereto, shall be applied in or towards the maintaining of the said forests, and the payment of the expences attending the management thereof.

108. Application of Monies arising from Sales, &c.—Subject to the provision herein-before contained with respect to the application of monies to arise from sales, exchanges, and leases in the royal forests, . . . all sums to be received under the authority of this Act for or in respect of any sales of any of the possessions and land revenues of the crown, or for equality of exchange on any exchange of any of the said possessions and land revenues, shall be applied in the payment of the purchase monies on the purchase of any manors, messuages, lands, or other hereditaments under the authority of this Act, or in the purchase of any lease of any part of the possessions and land revenues of the crown which may be bought in under the authority of this Act, and in payment of the monies to be paid for equality of exchange on any exchange to be made under the authority of this Act, and of the expences of the said commissioners of woods, in or relating to such purchases and exchanges, and in the payment of the monies to be paid for the redemption or purchase of any land tax which may be redeemed or purchased under the provisions herein-before contained, and of the expences of the said commissioners in or relating to such purchase or redemption, and in the discharge of any incumbrances which now or hereafter are or may be charged upon or affect any of the said possessions and land revenues of the crown to which this Act relates.

S. 108 *in part rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).

109. Sums arising from Sales not immediately wanted to be invested in the Three per Cents.—It shall be lawful for the said commissioners of woods, to cause any sums already received or which shall hereafter be received for or in respect of any sales or exchanges of any of the possessions and land revenues of the crown, and which may

not be immediately wanted for the purposes to which the same are hereby made applicable, to be laid out in the meantime in the purchase of three pounds per centum consolidated bank annuities, or three pounds per centum reduced bank annuities, in the name of the Treasury; in which name the Bank of England are hereby authorized and required to permit transfers to be made of the annuities to be so purchased, and such transfers shall be accepted by the said commissioners of woods, in the name and on behalf of the Treasury.

110. Dividends of Stocks so purchased to be applied in same manner as Annual Income of Land Revenues in England and Ireland respectively.—The amount of the dividends of the stocks and annuities to be purchased as last aforesaid shall from time to time, as the said dividends shall become due, be placed by the Bank of England to the credit of the said commissioners of woods, in their account with the bank; and so much of the dividends as shall have become due in respect of stocks purchased with monies which shall have arisen from the sale or exchange of any of the possessions and land revenues of the crown in England or Wales, the Isle of Man, and its dependencies, or the Isle of Alderney, shall be applied and disposed of by the said commissioners in the same manner and for the same purposes as and considered in all respects as part of the annual income of the possessions and land revenues of the crown in England and Wales; and so much of the said dividends as shall have become due in respect of stocks purchased with monies which shall have arisen from the sale or exchange of any of the possessions and land revenues of the crown in Ireland shall be applied and disposed of by the said commissioners in the same manner and for the same purposes as and considered in all respects as part of the sums to be received under the authority of this Act for or in respect of the annual income of the possessions and land revenues of the crown in Ireland.

111. And Stock so purchased may be sold, and the Proceeds applied as required.—When and so often as it shall be necessary or expedient to raise, by sale of any of the stocks or annuities to be so purchased as aforesaid, any sum of money for the purposes to which monies to be received under the authority of this Act from sales or exchanges of any of the possessions and land revenues of the crown are hereby respectively made applicable, it shall be lawful for the Treasury to sell out all or any part of the said stocks or annuities; and the sums raised by the sale of the said stocks and annuities shall be paid into the Bank of England, and be placed to the credit of the said commissioners of woods; and so much of the said monies as shall have been raised by the sale of stock purchased with monies which shall have arisen from the sale or exchange of any of the possessions and land revenues of the crown in England or Wales, the Isle of Man and its dependencies, or the Isle of Alderney, shall be applied and disposed of by the said commissioners in the same manner and for the same purposes as and considered in all respects as part of the sums to be received under the authority of this Act for or in respect of any sales or exchanges of any of the possessions and land revenues of the crown in England and Wales, the Isle of Man and its dependencies, or the Isle of Alderney; and so much of the said monies as shall have been raised by the sale of stock purchased with monies which shall have arisen from the sale or exchange of any of the possessions and land revenues of the crown in Ireland shall be applied and disposed of by the said commissioners in the same manner and for the same purposes and considered in all respects as part of the sums to be received under the authority of this Act for or in respect of any sales or exchanges of any of the possessions and land revenues of the crown in Ireland.

112. Transfers of Stock may be made by power of Attorney.—All sums of stock which shall be sold by the Treasury, under the provisions herein-before contained, may be transferred by any person or persons to be appointed by them for that purpose by any letter of attorney, attested by two or more credible witnesses; and the Bank of England shall and they are hereby authorized and required to permit all such transfers to be so made.

113. Application of Annual Income of Land Revenues.—The annual income of all the said possessions and land revenues of the crown to which this Act relates, including fines on leases, and all other sums received in respect of such leases or otherwise, for or in respect of the said possessions and land revenues (except from sales or exchanges) shall be applied in manner following; (that is to say,) in the first place, in payment of the costs, charges, and expences attending the management of the said

possessions and land revenues; in the next place, in the payment and discharge of any annual sum or sums of money or any pensions already charged or to be charged thereon respectively, and in the payment of any other principal sum and the interest of any principal sum or sums of money which is already or may be hereafter charged upon the said possessions and land revenues; . . . and, subject to the applications aforesaid, the said annual income . . . from and after the demise of his present Majesty (whom God long preserve) shall be payable and paid to the King's Majesty, his heirs and successors.

S. 113 *in part rep.* 37 & 38 *Vict. c.* 35 (*S.L.R.*); *and* 51 & 52 *Vict. c.* 3 (*S.L.R.*).

114. The Land Revenues, on their resumption by the Crown, to be charged with the repayment of certain sums expended in their improvement.—And whereas by the Acts herein-before recited,[1] by which it was provided that the sums amounting to six hundred thousand pounds, herein-before mentioned, should become a loan upon the land revenues of the crown in England, whenever the produce of the said land revenues should cease to be carried to the consolidated fund, it was also provided that the said sums should in that event bear interest from the respective times when the same were advanced; and it is reasonable that the said land revenue, if resumed by the crown, shall only be charged with interest on the said sum of six hundred thousand pounds from the time of such resumption; and it is also reasonable, in case of the principal sum of four hundred thousand pounds, herein-before mentioned to have been borrowed under the authority and for the purposes of the said recited Act of the seventh year of the reign of his present Majesty,[2] or any part thereof, should be paid off out of the annual income of the said possessions and land revenues of the crown, whilst the same shall be carried to the consolidated fund, that so much of the said principal sum of four hundred thousand pounds as shall be so paid off should, in the event of the said land revenues of the crown being resumed, be a charge thereon, with interest from the time of such resumption: Be it therefore enacted, that whenever the annual produce of the possessions and land revenues of the crown shall cease to be carried unto and form part of the consolidated fund of the United Kingdom of Great Britain and Ireland, and shall be retained by the crown as part of its hereditary revenue, the same shall be charged and chargeable with the repayment into the said consolidated fund of the said principal sum of six hundred thousand pounds before mentioned, and of so much of the said sum of four hundred thousand pounds as shall have been paid off out of the annual income of the said possessions and land revenues as aforesaid, together with interest for the same at the rate of four pounds per centum per annum, to be computed from the time when the annual income of the said possessions and land revenues shall so cease to be carried to the consolidated fund and be retained by the crown; and such land revenues shall thenceforth be applicable to the repayment of such principal sum or sums, and to the payment of such interest for the same as aforesaid, prior to any other application thereof, except the charges attending the management thereof, and the payment and discharge of any sum or sums now already charged thereon or to be charged thereon under or by virtue of this Act, and the interest thereof or of so much thereof as shall from time to time remain unpaid and undischarged, and the interest thereof.

[1] 53 *Geo.* 3, *c.* 121, 57 *Geo.* 3, *c.* 24, 1 *Geo.* 4, *c.* 7, *and* 5 *Geo.* 4, *c.* 48.
[2] 7 *Geo.* 4, *c.* 77.

[*Ss.* **115, 116** *rep.* 36 & 37 *Vict. c.* 91 (*S.L.R.*).]

117. Commissioners may keep Accounts with the Banks of England and Ireland.—The said commissioners of woods shall keep an account with the Bank of England, to be entitled "The Woods and Forests Fund," and may, if they shall find it more convenient so to do, keep any other distinct account or accounts with the said Bank of England; and shall also, so long as they shall find it necessary so to do, keep an account with the Bank of Ireland; and the said commissioners, observing the rules and regulations hereby prescribed, shall not be answerable, either collectively or individually, for any money which they the said commissioners, or any or either of them, shall have paid into the Bank of England or Bank of Ireland.

118. Commissioners to cause all sums received by their Agents, &c. to be paid into the Bank of England or Bank of Ireland—Drafts of Commissioners on

EITHER BANK SHALL BE AN AUTHORITY TO PAY.—The commissioners of woods shall cause all sums of money, bills, and drafts received by them, their agents or receivers, either on account of the annual income of the possessions and land revenues of the crown of England or Wales, the Isle of Man and its dependencies, or the Isle of Alderney, or for fines on leases, or on the sale or exchange of any parts of the said possessions and land revenues, to be paid as soon as conveniently may be into the Bank of England; and shall cause all sums of money, bills, and drafts received by them, their agents or receivers, either on account of the annual income of the possessions and land revenues of the crown in Ireland, or for fines on leases, or on the sale or exchange of any parts of the said possessions and land revenues of the crown in Ireland, to be paid as soon as conveniently may be either into the Bank of England or the Bank of Ireland; and all sums of money, bills, and drafts which shall be received by the said commissioners on any of the accounts aforesaid at their public office in London shall be paid by them into the Bank of England within one day after the same shall have been so received, or within one day after any such bill or draft shall have been accepted, completed, and perfected, if the same shall not have been accepted, completed, and perfected at the time it shall have been received; and all monies, bills, and drafts which shall be received by the Bank of England or Bank of Ireland, in pursuance of the provisions of this Act, shall be placed to such accounts, to be opened by the said Bank of England and Bank of Ireland respectively as shall from time to time be directed by the said commissioners of woods; and the drafts or orders of the said commissioners of woods, or any two of them, shall be sufficient authority to the said Bank of England and Bank of Ireland respectively to pay and apply and dispose of the said monies, bills, and drafts, to be paid into the said Bank of England or Bank of Ireland, to the person or persons or in the manner in such drafts or orders respectively mentioned or specified.

119. COMMISSIONERS MAY RETAIN A SUM NOT EXCEEDING L.3000 FOR CURRENT PAYMENTS.—Provided nevertheless, that it shall and may be lawful for the said commissioners of woods to reserve out of the monies to arise from the said possessions and land revenues of the crown of England, Wales, and Ireland, hereby placed under their management, for casual and ordinary payments, in the hands of any private banker, a sum not exceeding three thousand pounds, to be drawn for by the said commissioners of woods, or any two or more of them, from time to time as occasion shall require; and if any time the sum so reserved shall be reduced below three thousand pounds, then it shall be lawful for such commissioners from time to time to make up the same to the sum of three thousand pounds by drafts upon the Bank of England.

120. PAYMENTS OUT OF MONIES IN THE BANKS OF ENGLAND AND IRELAND TO BE MADE BY DRAFTS SPECIFYING THE PARTICULAR SERVICE, &C.—The commissioners of woods shall make all payments required to be made out of the monies to be deposited in the Bank of England or Bank of Ireland by drafts under the hands of any two or more of them on the said respective banks, and shall specify in such draft the particular service, salary, or other charge, purpose, or cause for which such draft shall be given; and every such draft shall also have marked in the margin thereof a figure corresponding to the page in a book kept by the said commissioners, wherein entry shall be made of the particular service, salary, or other charge, purpose, or cause, for which such draft shall be given.

121. SUCH DRAFTS TO BE AN AUTHORITY TO THE BANKS.—All drafts drawn pursuant to the directions of this Act, but not otherwise, shall be sufficient authority to the Bank of England and Bank of Ireland respectively to pay the amount thereof to the persons mentioned in such drafts, or to the bearer of them.

122. BANK OF IRELAND TO TRANSFER MONEY TO BANK OF ENGLAND WHEN REQUIRED.—The Bank of Ireland shall and they are hereby authorized and required from time to time, when and so often as they shall be required so to do by any order under the hand of the secretary for the time being to the commissioners of woods, to transfer any sum or sums of money from the account in their books of the said commissioners of woods to the account of the said commissioners with the Bank of England.

123. ON DEATH OR RESIGNATION OF COMMISSIONERS, CASH IN THE BANK, BILLS, &C. TO VEST IN SURVIVORS OR SUCCESSORS.—The balance of cash, together with all unpaid bills or drafts, for which the commissioners of woods shall from time to time have credit on their account with the Bank of England, or with the Bank of Ireland, or any private bankers, shall from time to time and at all times remain and be vested in the commissioners of woods to be applied by them for the purposes of this Act; and

no assignment, transfer, or other act shall be requisite on the death, resignation, or removal of any commissioner or commissioners, or on the appointment of any new commissioner or commissioners for the purpose of vesting the same in the surviving commissioner or commissioners or the newly appointed commissioner or commissioners, but the same by virtue of this Act shall, on any such death, removal, resignation, or new appointment, become and be vested in the surviving or remaining commissioner or commissioners, or the newly appointed commissioner or commissioners, or, if there shall be a new appointment of the whole number of commissioners, then in the new commissioners, as fully and effectually as if they had been the commissioners of woods, at the times such bills, drafts, and cash were respectively paid into the Bank of England or Bank of Ireland, or such private bank.

124. Persons forging Drafts, &c. guilty of Felony.—If any person or persons shall knowingly and wilfully forge or counterfeit, or knowingly and wilfully act or assist in forging or counterfeiting the name or handwriting of the lord high treasurer or of the commissioners of his Majesty's Treasury for the time being, or of any or either of them, to any power of attorney for the sale or transfer of any stock, or the name or handwriting of the said commissioners of woods, or of any or either of them, to any draft, instrument, or writing whatsoever, for or in order to the receiving or obtaining any of the money in the hands or custody of the Bank of England or of the Bank of Ireland, or of any private banker, on account of the said commissioners, or shall forge or counterfeit, or cause or procure to be forged or counterfeited, or knowingly and wilfully act or assist in the forging or counterfeiting, any draft, instrument, or writing in form of a draft made by the said commissioners, or any or either of them, or shall utter or publish any such, knowing the same to be forged or counterfeited, with an intent to defraud the Bank of England or the Bank of Ireland, or any private banker, or any body corporate, or any person or persons whomsoever, every person or persons so offending, being thereof lawfully convicted, shall be and is and are hereby declared and adjudged to be guilty of felony.

125. Commissioners of Woods to certify annually to the King and the Parliament what Leases, &c. have been made, &c., with a statement of Income and Expenditure and other particulars.—The said commissioners of woods shall and they are hereby required . . . in every year, (without any special or other requisition to be made to them for that purpose,) to certify and report in writing under their hands and seals to the King's most excellent Majesty and both houses of Parliament, what leases, sales, exchanges, purchases, and grants shall have been made during the year preceding the fifth day of January one thousand eight hundred and thirty, and during each subsequent year comprised in each succeeding report; and the said commissioners shall state in such reports for what terms or estates such leases shall have been made, and also the annual value of the tenements or hereditaments comprised in every such lease, and the annual value of the same premises by the last preceding survey thereof, where there shall happen to be a further survey and valuation of the same in the custody or power of the said commissioners, and what rent or rents shall have been reserved on every such lease, and what fines paid for the same, and upon what other consideration such leases shall respectively have been made or granted; and also, so far as the same can be done, the rents and fines which were reserved and paid upon or for the last preceding lease of such tenements or hereditaments, and also the manors, lands, and other hereditaments which have been sold or given or received in exchange, or of which any grant shall have been made, during the same periods respectively, and the amount of the purchase money paid or received for the same respectively, and the amount of the money given or received for equality of exchange in respect of such exchanges, and the names of the parties to, from, or with whom such sales, exchanges, purchases, and grants respectively shall have been made, and the purposes for which such grants shall have been made; and also a statement of the income and expenditure of the monies which shall have arisen from the possessions and land revenues of the crown to which this Act relates, and of any other monies placed under the management of the said commissioners during the period comprised in each report; and the said commissioners shall also set forth all such other matters and things touching or concerning the said possessions and land revenues of the crown to which this Act relates as to the said commissioners shall seem proper and necessary to be contained and set forth in such reports.

S. 125 *in part rep.* 57 & 58 *Vict. c.* 56 (*S.L.R.*).

126. This Act not to repeal or affect the Acts 39 & 40 Geo. 3, c. 88; 59 Geo. 3, c. 94; 6 Geo. 4, c. 17.—Provided always, that nothing in this Act contained shall extend or be deemed or construed to extend to repeal, interfere with, or in any manner affect any of the powers and provisions of an Act passed in the thirty-ninth and fortieth years of the reign of his late Majesty King George the Third, intituled "An "Act concerning the disposition of certain real and personal property of his Majesty, "his heirs and successors; and also of the real and personal property of his Majesty "and of the Queen Consort for the time being;" . . . or of an Act passed in the fifty-ninth year of the reign of his said late Majesty, to explain and amend the said two last-mentioned Acts; or of an Act passed in the sixth year of his present Majesty, for extending the provisions of the said last-mentioned Act.

S. 126 *in part rep.* 51 & 52 *Vict. c.* 3 (*S.L.R.*).

[*S.* **127** *applies to Ireland exclusively.*]

128. This Act not to affect the control of the small branches of his Majesty's Hereditary Revenue.—Provided also, that nothing in this Act contained shall extend or be construed to extend in anywise to impair or affect any rights or powers of control, management, or direction which have been or may be exercised by authority of the crown, or other lawful warrant, relative to any leases, grants, or assurances of any of the small branches of his Majesty's hereditary revenue, or to any suits or proceedings for recovering of the same, or to compositions made or to be made on account of any of the said small branches, or to fines taken or to be taken, or to rents, boons, and services reserved or to be reserved upon such grants, leases, and assurances, or to the mitigation or remission of the same, to any other lawful act, matter, or thing which has been or may be done touching the said branches, but that the said rights and powers shall continue to be used, exercised, and enjoyed in as full, free, ample, and effectual manner, to all intents and purposes, as if this Act had not been made, and as the same had been or might have been enjoyed by his Majesty up to the time of passing of this Act; subject nevertheless to all such restrictions and regulations as are now in force in relation thereto, it being the true intent and meaning of this Act that the said rights and powers shall not in any degree be abridged or restrained or affected in any manner whatsoever by the passing of this Act.

[*Ss.* **129, 130** *local and personal.* *S.* **131** (*authorizing the Treasury to abolish or reduce any offices connected with the management of the possessions and land revenues of the crown in Ireland*) *rep.* 36 & 37 *Vict. c.* 91 (*S.L.R.*).]

132. Treasury may order removal of Records, &c. of any Office abolished.—It shall be lawful for the said lord high treasurer or the commissioners of his Majesty's Treasury for the time being to cause any records or other muniments, documents, instruments, maps, books, or writings, now kept in any of the offices which may be reduced or abolished under the authority of this Act, to be removed from any office or offices in which the same are now or shall at any time hereafter be kept or deposited to any other office or place which the said lord high treasurer or commissioners shall think proper to appoint for that purpose.

[*Ss.* **133, 134** *apply to Ireland exclusively.*]

135. General saving of Rights.—Provided always, that nothing herein contained shall extend or be construed to extend to abridge or interfere with any rights of his Majesty, or of the lord high treasurer, or the commissioners of his Majesty's Treasury, or the chancellor of the Exchequer, for the time being, or any grantee of the crown, in respect of any appointment usually made by his Majesty, or the said lord high treasurer or commissioners, or the chancellor of the Exchequer, or such grantee, or with the right of appointment of master keepers, under keepers, or other officers, of or in any royal forest, so long as such last-mentioned right shall be vested in any warder or ranger of any such forest, or with any privileges or advantages which may be rightfully enjoyed or claimed under any letters patent granted by his Majesty or his predecessors, of any office, bailiwick, walk, or lodge, within any of the royal forests to which this Act relates.

SCHEDULE to which this Act refers.

FORM of CONVEYANCE on Sales by the Commissioners of His Majesty's Woods, Forests, and Land Revenues.

(Omit the parts within the brackets if the consideration does not exceed L.100.)

Know all men by these presents, that we A.B. and C.D., two of the commissioners of his Majesty's woods, forests, and land revenues, on behalf of his Majesty, and under the authority of an Act passed [here set forth the title of this Act], in consideration of the sum of by E.F. of, &c. paid [here describe the mode of payment, whether into the Bank of England, the Bank of Ireland, or to the commissioners,] do by these presents grant unto the said E.F. and his heirs [or, if the conveyance be to a trustee or trustees for the purchaser, do by these presents, by the direction and on the nomination of the said E.F. grant unto G.H. &c. and his heirs,] all that [here describe the premises to be sold, and any subsisting leases, contracts, or charges affecting the same; and in the case of rents or other incorporeal hereditaments, also describe the lands, &c. which the same are charged upon or extend over,] to have and to hold the said [shortly specifying the premises sold] hereby granted, and all benefits and advantages thereto belonging, unto the said E.F., his heirs and assigns for ever, [or unto the said G.H., his heirs and assigns, as the case may be; and any uses to which the grant is intended to enure, or any trusts or purposes upon or for which the grantees are to hold the premises, may be declared, either by setting out the same on the grant, or by reference to any other deed or instrument; and if the purchase is of a rent which is meant to be extinguished, add "to the intent that the said [here describe the rent] shall cease and "be extinguished, and the said [describe shortly the premises on which the rent is "charged] may be absolutely freed and for ever discharged from the same;" or if the purchase be of a rent which is not meant to be extinguished, add, "and it is hereby "declared that the said [here describe the rent] shall not become extinguished by the "grant thereof hereby made, but shall subsist and continue for the benefit of the "parties entitled thereto under this grant"]. In witness whereof we the said A.B. and C.D. have hereunto set our hands and seals, this day of in the year of our Lord .

A.B.
C.D.

Witness to the execution by the said A.B. and C.D.

FORM OF RECEIPT.

Received, the day of , of and from the above-named [or if the receipt is indorsed, the within-named] E.F. the sum of lawful money of Great Britain, being the consideration money expressed in the above [or within] written conveyance.

Witness our hands, A.B. and C.D.

FORM of the CONVEYANCE to His Majesty of any Lands, &c. agreed to be received in Exchange by the Commissioners of His Majesty's Woods, Forests, and Land Revenues.

Know all men by these presents, that I E.F., of in the county of , in consideration of the conveyance to me by the commissioners of his Majesty's woods, forests, and land revenues, on behalf of his Majesty, under the authority of an Act passed [here set forth the title of this Act], of [here describe the premises given in exchange], and also the sum of paid to me by the said commissioners of his Majesty's woods, forests, and land revenues, on behalf of his said Majesty, for equality of exchange, the receipt whereof I hereby acknowledge [this is to be omitted if money is given for equality of exchange], do by these presents grant, bargain, and sell unto his Majesty, his heirs and successors, all that [here describe the premises received in exchange on the part of his Majesty, and any subsisting leases, contracts, or charges

affecting the same; and in case of fuel rights or other incorporeal hereditaments, also describe the lands, &c. which the same extend over] to have and to hold the said [shortly specify the premises] to his Majesty, his heirs and successors, in right of his crown] here insert any covenants for title or other covenants which may have been required from the party with whom the exchange is made]. In witness whereof I the said E.F. have hereunto set my hand and seal, this day of , in the year of our Lord .

E.F.

Witness to the execution by the said E.F.

Form of Lease for Railways, or of Encroachments in the Royal Forests.

These are to witness, that in consideration of the annual rent herein-after reserved, the commissioners of his Majesty's woods, forests, and land revenues, for and on behalf of his Majesty, and in exercise of the power given them in this behalf by an Act passed in the tenth year of the reign of his Majesty King George the Fourth, and intituled [here set forth the title of this Act], do by these presents demise, lease, and to farm let unto X.Y. of, &c., his executors, administrators, and assigns, all [describe the parcels of land, &c.] to have and to hold the said [parcels] hereby demised, and all benefit and advantage thereto belonging, unto him the said X.Y., his executors, administrators, and assigns, for and during the term of years from the day of last, [or from the day of the date of these presents,] or during the natural lives of [naming them] and the lives and life of the survivors and survivor of them, yielding and paying for the same, by half-yearly payments on the day of and the day of in each year, to his Majesty, his heirs and successors, the annual rent or sum of , the first half-yearly payment of the said annual rent to be made on the day of next. In witness whereof A.B. and C.D., two of the said commissioners, have hereunto set their hands and seals, this day of in the year, &c.

Witness .

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11 GEORGE 4 & 1 WILLIAM 4, 1830.

CHAPTER XXVI.

The National Debt Act, 1830 (*Short Titles Act*, 1896).

An Act to authorize the issuing of Exchequer Bills for the Payment of the Proprietors of Four Pounds per Centum Annuities in England and Ireland who have signified their Dissent under an Act passed in the present Session for transferring such Annuities into Three Pounds Ten Shillings per Centum Annuities. [17th June 1830.]

[*Preamble.*]

[*Ss.* **1–5** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

6. Commissioners for Reduction of National Debt may purchase or make advances on Exchequer Bills with monies or funds standing in their names under Acts 9 Geo. 4, c. 92; 10 Geo 4, c. 24; 10 Geo. 4, c. 27.—And whereas certain monies, stocks, or funds have been and may become vested in and standing in the names of the commissioners for the reduction of the national debt in the books of the Bank of England, in pursuance of the several Acts herein-after mentioned; that is to say, an Act of the ninth year of his present Majesty, intituled "An Act to consolidate and amend "the Acts relating to savings banks"; an Act of the tenth year of his Majesty, intituled "An Act to enable the commissioners for the reduction of the national debt to grant

" life annuities and annuities for terms of years "; and another Act of the said tenth year, intituled "An Act to amend the several Acts for regulating the reduction of the " national debt ": Be it enacted, that it shall and may be lawful for the said commissioners to apply such monies or any part thereof, and to sell such stocks and funds, and to apply the proceeds thereof, or any part of such proceeds, as the said commissioners shall deem most fit and convenient, in the purchase of any Exchequer bills, and advance the whole or any part of such monies, stocks, or funds upon the credit of any such Exchequer bills; any thing in any Act or Acts to the contrary in anywise notwithstanding.

[*Ss.* **7**, **8** *rep.* 51 *&* 52 *Vict. c.* 57 (*S.L.R.*).]

9. THE EXCHEQUER BILLS PURCHASED, &C. SHALL BE CANCELLED.—All Exchequer bills which shall be purchased or upon which monies shall be advanced by the said commissioners for the reduction of the national debt, under the provisions of this Act . . . shall be delivered from time to time to the paymaster of Exchequer bills, to be cancelled.

S. 9 *in part rep.* 54 *&* 55 *Vict. c.* 67 (*S.L.R.*)

[*S.* **10** *rep.* 51 *&* 52 *Vict. c.* 57 (*S.L.R.*).]

STATUTES OF KING WILLIAM THE FOURTH.

11 GEORGE 4 & 1 WILLIAM 4, 1830.

CHAPTER XXXVII.

THE CRIMINAL LAW (SCOTLAND) ACT 1830 (*Short Titles Act*, 1896).

AN ACT to amend an Act of the ninth year of His late Majesty King George the Fourth, to facilitate Criminal Trials in Scotland, and to abridge the Period now required between the pronouncing of Sentence and Execution thereof, in cases importing a Capital Punishment. [16th July 1830.]

[*Preamble recites 9 Geo. 4, c. 29.*]

[*S. 1 rep. 36 & 37 Vict. c. 91 (S.L.R.).*]

2. WHEN SENTENCE OF CAPITAL PUNISHMENT IS PASSED, A DAY TO BE NAMED FOR CARRYING IT INTO EXECUTION WITHIN CERTAIN SPECIFIED PERIODS.—Every sentence of any criminal court importing a capital punishment, if pronounced in Edinburgh or in any other part of Scotland to the southward of the firth or river of Forth, shall specify a day for having the same put to execution, not being less than fifteen days or more than twenty-one days after the date of such sentence; and if pronounced in any place to the northward of the said firth or river of Forth, the day to be so specified shall not be less than twenty days or more than twenty-seven days after the date of such sentence.

S. 2 in part rep. 51 & 52 Vict. c. 57 (S.L.R.).

3. SPRING CIRCUIT IN CERTAIN EVENTS NOT TO BE HELD SOONER THAN 20TH APRIL.—So long and as often as an additional circuit court shall be held at any town in Scotland during the recess of the Court of Session in the end of December and beginning of January, in terms of the before recited Act passed in the ninth year of the reign of his late Majesty King George the Fourth, the immediately succeeding circuit court shall not be held at any such town sooner than the twentieth day of April.

4. REGULATION AS TO CRIMINAL TRIALS BEFORE SHERIFFS.—On the prosecution of criminal offences before sheriffs of counties according to the summary form provided by the said last-recited Act, the person accused, when first brought before the sheriff, shall be entitled to require a copy of the libel against him, and to require that his trial shall be adjourned for a space not less than forty-eight hours after such copy of the libel shall be served upon him; and such requisitions shall thereupon be complied with, provided that the same shall be made before the examination of any witness upon the trial shall have been commenced; and no such requisition shall be competent where a copy of the libel shall have been served upon the person accused at least forty-eight hours before such trial.

5. FURTHER REGULATIONS AS TO THE SAME—EVIDENCE.—No adjournment of any such trial shall take place when the person accused pleads Not guilty, or at any other stage of the trial, except when required by the person accused, as herein-before provided, unless the sheriff shall see cause to authorize such an adjournment; and when the declaration of the person accused or other evidence different from parole testimony shall be adduced on such trial, the production thereof in evidence shall be marked in the record of the trial.

6. TRANSMISSION OF PRISONERS.—It shall be lawful for any officer of the law, when lawfully conveying any prisoner to any gaol or before any magistrate, to convey such prisoner through any county adjoining to that over which the magistrate possesses jurisdiction before whom such prisoner is to be carried for examination, or to that in which the gaol is situated to which such prisoner is to be committed, in the same way in all

respects as if such officer had been an officer of the county through which he may so pass, and as if the warrant under which he is acting had been granted or indorsed by a magistrate of such county.

7. Officer may cite Jurors and Witnesses, without Witnesses—Oath of Officer sufficient Evidence of Citation.—It shall be sufficient for the legal citation of any juror or witness in any cause or legal proceeding, civil or criminal, that such citation be given by any officer of the law duly authorized, without witnesses; and the oath of such officer in support of the execution shall be held and received as sufficient evidence of such citation when the same shall be questioned in a court of law.

8. Citation of Witnesses.—When the attendance of any person shall be required as a witness in any criminal cause or proceeding, or in any prosecution for a pecuniary penalty, before any court or magistrate in Scotland, such person, although not residing within the jurisdiction of the court or magistrate granting the warrant of citation, may be cited on the warrant of such court or magistrate, and this either by a messenger at arms or by an officer of the court or magistrate granting the warrant, or by an officer of the place in which such person may be for the time; and such citation shall be sufficient to enforce the attendance of such person as a witness, in all respects, as if such person had been resident within the jurisdiction of the magistrate by whom such warrant shall have been granted; and further, any sentence or decree for any pecuniary penalty or expences pronounced by any court or magistrate may be enforced against the person or effects of any party against whom any such sentence or decree shall have been awarded in any other county, as well as in the county where such sentence or decree is pronounced: Provided always, that such sentence or decree, or an extract thereof, shall be first produced to and indorsed by a court or magistrate of such other county competent to have pronounced such sentence or decree in such other county.

9. Conviction for a Crime, except Perjury, and endurance of Punishment, not to disqualify a Witness.—Where any person who hath been or shall be convicted of any crime (except perjury or subornation of perjury), and shall have endured the punishment to which such person shall have been sentenced for the same, such person shall not thereafter be deemed, by reason of such conviction or sentence, an incompetent witness in any court or proceeding, civil or criminal.

10. Sentence of Banishment not to be pronounced except where specially authorized by Act of Parliament.—It shall not be competent for any judge or magistrate to pronounce upon any person whatsoever convicted of any crime a sentence banishing such person forth of Scotland only, or forth of any burgh or district or county of Scotland, save and except in those cases where by any Act or Acts of the Parliaments of Scotland now in force the punishment of banishment forth of Scotland is enacted and specially provided for any specific offence.

11. Who may be employed in preparing Returns ordered by this Act and making up County Lists of Jurors under 6 Geo. 4, c. 22.—In preparing the return ordered by this Act, and in making up lists of jurors in terms of an Act passed in the sixth year of the reign of his late Majesty King George the Fourth, intituled "An Act to regulate the "qualification and the manner of enrolling jurors in Scotland, and of choosing jurors on "criminal trials there, and to unite counties for the purposes of trial in cases of high "treason in Scotland," the sheriffs of counties shall only employ such persons to assist in the discharge of the duty as shall be authorized by the Court of Exchequer in Scotland according to a regulation to be established by that court; and such persons shall not receive any remuneration for the said duty other than such as may be fixed by a table to be prepared and sanctioned by the Court of Exchequer for that purpose, which table the said court is hereby required to cause to be prepared and to sanction accordingly.

12. Provision as to where Criminal Trials shall be held in certain cases.—Where, from the extent of any burgh or town situated at a distance from the head burgh of a shire, or from any other cause, it shall be deemed expedient that trials of persons accused of crimes committed in such burgh or town, or in places adjacent thereto, should be there tried, instead of being tried at the said head burgh, it shall be lawful for the High Court of Justiciary at Edinburgh, on the application of his Majesty's advocate, to give all such directions in that behalf as the said court shall think fit; and the sheriff of the county within which such burgh or town is situated shall give obedience to all directions so given.

13. Provisions of 9 Geo. 4, c. 29, for protection of Inferior Judges, &c., extended.—The said recited Act passed in the ninth year of the reign of his late Majesty, in so far as it provides for rendering all inferior judges and magistrates more safe in the execution of their duty, shall extend to all acts done by any such judge or magistrate in apprehending any party, or in regard to any criminal cause or proceeding, or to any prosecution for a pecuniary penalty.

14. Sheriff and other Magistrates of Argyleshire may hold Courts and grant Warrants in the Town of Fort William.—[*Recital*] It shall be competent to the sheriff of the county of Argyle, and his substitutes, and to all other magistrates of the county of Argyle, to grant all warrants, civil and criminal, and to hold all courts for the trial of all causes, civil and criminal, and to pronounce judgment therein, within the town of Fort William, in the same way and to the same effect, in all respects, as if such warrants were granted and judgments pronounced within the county of Argyle.

15. Sheriffs to make Returns to Lord Advocate of persons committed on Criminal Warrants according to the form in the Schedule—Lord Advocate to transmit a general Return to Secretary of State, to be laid before Parliament.—The sheriff of every county in Scotland shall, on or before the fifteenth day of January of every year, transmit to his Majesty's advocate for Scotland a return showing the number of persons committed to the several gaols within the jurisdiction of such sheriff on criminal warrants of detention till liberated in due course of law, in the year ending on the thirty-first day of December immediately preceding; which return shall show the nature of the crimes and the result of the commitments, according to the form contained in the schedule annexed to this Act, but subject to such alterations and additions as may from time to time be ordered and required by one of his Majesty's principal secretaries of state; and his Majesty's advocate for Scotland is hereby required to prepare from these returns, under the same heads, a general return for Scotland, distinguishing each county, and on or before the first day of March in each year to cause the same to be transmitted to one of his Majesty's principal secretaries of state, to be laid before Parliament.

S. 15 *in part rep.* 51 *& 52 Vict. c.* 57 (*S.L.R.*).

SCHEDULE referred to in the foregoing Act.

RETURN of the number of persons, distinguishing males from females, committed in the year to the several gaols in the County of , under warrants directing them to be detained till liberated in due course of law; showing the nature of the crimes, and the result of the commitments.

NATURE OF THE CRIME for which persons were committed for trial.	Number of persons remaining untried from preceding year.				Number of persons committed for trial.		Number of persons liberated without trial, and without finding bail to stand trial, including those whose obligation to stand trial has been allowed to expire.		Number of persons tried, and before what Court.												Number of persons convicted, outlawed, or acquitted.							
	In gaol.		On bail to stand trial.						High Court of Justiciary.		Circuit Court of Justiciary.		Sheriff.				Burgh Magistrates.		Justices or other Court.		Total.		Convicted.		Outlawed.		Acquitted.		Found to be insane.	
													By a jury.		Without a jury.													
	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.
Murder																														
Culpable homicide																														
Robbery																														
Rape																														
Wilful fire-raising																														
Forgery and uttering forged documents																														
Theft																														
Theft, by housebreaking																														
Assault																														
Other offences on account of which persons were committed for trial, specifying the nature thereof respectively:																														
Totals																														

Persons to be punished.

SCHEDULE referred to in the foregoing Act—*continued.*

A RETURN of the number of persons, distinguishing males from females, committed in the year to the several gaols in the County of , under warrants directing them to be detained till liberated in due course of law; showing the nature of the crimes, and the result of the commitments—*continued.*

continued from page 203.	Number of persons untried.				Sentences of those convicted, distinguishing the number of those who, having received sentence of death, were executed.																								Observations.
					Number sentenced to death.						Number sentenced to Transportation.				Number sentenced to Imprisonment for								Other sentences, describing their nature.							
	In gaol.		On bail to stand trial.		Total number.		Number executed.		Number pardoned.		Number of sentences commuted.		Life.		Fourteen years.		Seven years.		3 months and under		6 months and above 3 months.		12 months and above 6 months.		above one year.								
	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	

Schedule referred to in the foregoing Act—*continued.*

N.B.—When persons are committed to a county or a burgh prison, and afterwards removed to Edinburgh or to a circuit town for trial, they will be returned in the county where such persons were confined previously to such removal. In cases where persons have been convicted of a different crime from that specified in the warrant of commitment, they will be placed in the columns opposite to the offence of which they have been convicted, and not opposite to that for which they may have been committed. Persons whose sentences have been commuted will be distinguished from those unconditionally pardoned, and the grounds for every unconditional pardon, so far as known, will be mentioned in the column of observations.

CHAPTER XXXIX.

THE TRANSPORTATION ACT, 1830 (*Short Titles Act*, 1896).

AN ACT to amend an Act passed in the Fifth Year of His present Majesty, for the Transportation of Offenders from Great Britain; and for punishing Offences committed by Transports kept to labour in the Colonies.

[16th July 1830.]

[*Preamble.*]

[*S.* **1** *rep.* 53 *&* 54 *Vict. c.* 51 (*S.L.R.*).]

2. GOVERNOR OF THE ONE COLONY MAY RECEIVE FELONS WHO ARE ORDERED TO BE DELIVERED IN THE OTHER COLONY.—In any case in which a ship conveying felons or other offenders from the United Kingdom of Great Britain and Ireland, the master of which has entered into a contract or been ordered to deliver such felons or other offenders at the colony or place specified in such contract or order, shall, by stress of weather or other circumstances, convey such felons or other offenders to any other colony or place to which such offenders may legally be transported or banished, the governor or officer administering the government of such other colony or place is hereby authorized, if he shall deem it expedient, to receive and retain such felons or other offenders in the said colony or place; and the said felons or other offenders shall be subject and liable to all such and the same laws, rules, and regulations, as if they had been contracted or ordered on their original transportation to be delivered to him.

[*Ss.* **3, 4** *rep.* 53 *&* 54 *Vict. c.* 51 (*S.L.R.*).]

5. CONVICTS REMOVED FROM ONE COLONY TO ANOTHER TO BE SUBJECT TO THE REGULATIONS OF THE COLONY TO WHICH THEY ARE REMOVED.—So soon as any such convict shall be delivered to the governor or to the officer administering the government of the colony to which he or she shall be so removed, such convict shall within such colony be subject and liable to all such and the same laws, rules, and regulations, as if he or she had been contracted or ordered on his or her original transportation to be delivered to the governor or the officer administering the government of such colony, and shall be there dealt with, governed, and disposed of, in all respects, in such and the same manner as other convicts within the same colony; and the property in the service of every such convict shall be vested in the governor or officer administering the government of the colony to which he or she may be so removed, in the same manner, and subject to all such and the same rules and conditions, as if he or she had been contracted or ordered on his or her original transportation to be delivered to such governor or officer as aforesaid.

6. FOR PROHIBITING THE SUPPLY OF SPIRITUOUS LIQUORS TO OFFENDERS CONFINED UNDER SENTENCE OF TRANSPORTATION EITHER IN OR OUT OF ENGLAND.—If any person, in contravention of the existing rules and regulations for the government of any place of confinement for male offenders under sentence or order of transportation within England or Wales, or in any part of his Majesty's dominions out of England, shall carry or bring, or attempt or endeavour to carry or bring, into any such place of confinement as aforesaid, or shall supply or cause to be supplied to any offender there confined as an offender, any spirituous or fermented liquors, it shall be lawful for any overseer or other officer

belonging to such place of confinement to apprehend or cause to be apprehended such person, and to carry such person before a justice of the peace, who is hereby empowered to hear and determine such offence in a summary way; and if he shall lawfully convict such person of such offence, he shall forthwith commit such person to the common gaol or house of correction of the place where the same shall be heard and determined, there to be kept in custody for any time not exceeding three months, without bail or mainprize, unless such person shall immediately pay down such sum of money, not exceeding twenty pounds and not less than ten pounds, as the said justice shall impose upon such person, one moiety thereof to be paid to the informer, and the other moiety to be paid and made applicable to the maintenance of the place employed for the confinement of offenders under sentence of transportation as aforesaid.

[*S.* **7** *applies to England exclusively; s.* **8** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

CHAPTER XLI.

THE ARMY PENSIONS ACT, 1830 (*Short Titles Act*, 1896).

AN ACT to make further Regulations with respect to Army Pensions. [16th July 1830.]

[*Preamble.*]

[*S.* **1** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

2. COMMISSIONERS OF CHELSEA HOSPITAL MAY COMMUTE THE ANNUAL PENSION OF OUT PENSIONERS DESIROUS OF LIVING OUT OF GREAT BRITAIN AND IRELAND—HOW COMMUTATION MONEY TO BE PAID—ALL CLAIM FOR ANNUAL PENSION TO CEASE AFTER COMMUTATION.—The lords and others, commissioners of the royal hospital for soldiers at Chelsea in the county of Middlesex may and shall give to any non-commissioned officer or soldier entitled to out-pension from the said royal hospital, who shall be desirous of living out of Great Britain and Ireland, and who shall be recommended for that purpose by any order of his Majesty, signified to the said commissioners by the secretary at war, a sum of money not exceeding in amount four years pension, as a commutation or equivalent in gross for all annual pension to which such non-commissioned officer or soldier might otherwise be entitled; and the money so to be paid as an equivalent or commutation for pension shall be paid out of any money voted for or applicable to the payment of pensions under the management of the said commissioners of Chelsea hospital; and the receipt of the person receiving such commutation or equivalent, or other proof of his having accepted an equivalent or commutation in gross in lieu of such annual pension, shall be a full discharge for the sum so paid, and shall be a release and abandonment of all claims to any future or other payment of pension whatsoever.

3. IN GRANTING PENSIONS TO SOLDIERS, SERVICE AS A MARINE MAY IN CERTAIN CASES BE ALLOWED TO RECKON.— . . . It shall be lawful for the said commissioners of Chelsea hospital, in their discretion, with respect to the granting of army pensions, to allow to any non-commissioned officer or soldier of his Majesty's army his previous service as a marine, in reckoning his claim for pension; provided that such previous service, and the cause of discharge from such service, shall be declared and verified and recorded at the time the said persons shall respectively enter into his Majesty's army . . . . . .

S. 3 *in part rep.* 28 *&* 29 *Vict. c.* 112, *s.* 1.

4. COMMISSIONERS OF CHELSEA HOSTITAL MAY RESTORE PERSONS CONVICTED OF FELONY TO PENSIONS.—It shall be lawful for the said commissioners of Chelsea hospital, with the consent of the secretary at war, in all cases in which it may be deemed expedient, to restore any non-commissioned officer or soldier who shall have been convicted of felony, and thereby forfeited his pension, either to his original pension or to any less rate of pension.

5. SUMS NOT EXCEEDING L.50 ON ACCOUNT OF PENSION OR PRIZE MONEY MAY BE PAID WITHOUT LETTERS OF ADMINISTRATION.—It shall be lawful for the said commissioners of the said hospital at Chelsea . . . to authorize the agent for pensions, or other proper officer charged with the payment thereof, to pay to any person or persons who

shall prove him, her, or themselves, to the satisfaction of such commissioners, . . . to be the next of kin or legal representative or otherwise legally entitled to any pension or prize money . . . due to any deceased officer, non-commissioned officer, soldier, or pensioner, such pension, prize money, [*or pay, rep.* 53 *&* 54 *Vict. c.* 33 (*S.L.R.*).] provided the same does not exceed fifty pounds, although the person so entitled shall not have taken out letters of administration, or have procured probate of any will, of such deceased officer, non-commissioned officer, soldier, or pensioner.

S. 5 *in part rep.* 53 *&* 54 *Vict. c.* 33 (*S.L.R.*).

[*S.* **6** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

CHAPTER XLIII.

THE DEMISE OF THE CROWN ACT, 1830 (*Short Titles Act,* 1896).

AN ACT to abolish certain Fees and Stamp Duties chargeable on the Renewal of all Appointments, Commissions, Grants, Pensions, and Patents consequent on the demise of the Crown. [16th July 1830.]

[*Preamble.*]

1. PERSONS IN POSSESSION OF OFFICES, &C. AT THE DEMISE OF THE CROWN, AND RE-APPOINTED, &C. THERETO, EXEMPTED FROM FEES OR STAMP DUTIES IN RESPECT OF SUCH RE-APPOINTMENT, &C.—Every person who at the demise of his present Majesty (whom God long preserve), or of any of his successors, shall possess or enjoy, any office, employment, pension, rank, or precedence, granted during the pleasure of the crown by any letters patent, commission, warrant, or other instrument, and shall be continued in the enjoyment of and be re-appointed to such office or employment, or obtain a re-grant of such pension, rank, or precedence, shall be exempted, except as herein-after provided, from paying to his Majesty, or to any of his Majesty's successors, or to any other person or persons whomsoever, any fee or stamp duty in respect of such re-appointment or re-grant.

2. THE TREASURY TO DETERMINE THE REMUNERATION TO BE MADE FOR PREPARING COMMISSIONS, &C., WHICH SHALL BE PAID BY THE PERSONS OTHERWISE CHARGEABLE WITH THE FEES.—And whereas it is just and reasonable that the persons whose right and duty it is or may be, by virtue of their respective offices, to prepare, make out, settle, and attend to the passing of the usual commissions, letters patent, warrants, or other instruments upon such re-appointment and re-grants, as aforesaid, should receive a proper and adequate remuneration for the performance of such duty: Be it enacted, that the Treasury shall in all such cases fix and determine the amount of such remuneration; and that such remuneration shall be paid by the persons who would have been chargeable (if this Act had not passed) with the fees payable upon such re-appointment or re-grant as aforesaid.

[*S.* **3** *rep.* 53 *&* 54 *Vict. c.* 33 (*S.L.R.*).]

4. COMMISSIONS FOR TAKING AFFIDAVITS OR RECOGNIZANCES OF BAIL TO CONTINUE IN FORCE NOTWITHSTANDING THE DEMISE OF THE CROWN.—All commissions heretofore granted or hereafter to be granted for the taking of affidavits to be made use of and read in any court, or for the taking recognizances of bail, shall, notwithstanding any demise of the crown, remain and continue in force during the pleasure of any successor of the sovereign by whom the same commissions may have been or may hereafter be granted, until the same shall be revoked or otherwise avoided.

CHAPTER LI.

THE BEER LICENCES ACT, 1830 (*Short Titles Act*, 1896).

AN ACT to repeal certain of the Duties on Cyder in the United Kingdom, and on Beer and Ale in Great Britain, and to make other Provisions in relation thereto. [16th July 1830.]

[*The whole Act, except ss.* **22–24**, *rep.* 43 *&* 44 *Vict. c.* 20, *s.* 49.]

22. NOTHING IN THIS ACT OR 11 GEO. 4, & 1 WILL. 4, C. 64, TO AFFECT THE LICENCES REQUIRED BY LAW TO BE TAKEN OUT BY BREWERS AND DEALERS IN BEER, AND BY PUBLICANS—WHO SHALL BE DEEMED DEALERS IN BEER.—And whereas an Act was passed in this present session of Parliament, intituled "An Act to permit the general "sale of beer and cyder by retail in England," whereby the commissioners of excise are authorized and empowered to grant licences to persons to retail ale or beer or cyder without such persons obtaining or producing a certificate or authority granted to such persons by justices of the peace or magistrates: Be it further enacted, that nothing in the said Act or in this or any other Act contained shall extend or be deemed or construed to extend in any manner to interfere with the licences now required by law to be taken out and renewed by brewers of and dealers in beer, and persons keeping common inns, ale houses, and victualling houses, and selling beer, ale, and cyder, and wines and spirituous liquors, by retail, to be drank or consumed on the premises, but that all and every brewers and brewer of and dealer in beer shall take out such licences as are now by law required to be taken out by such brewers and dealers respectively; and every person who shall sell any beer or ale in quantities not less than four gallons and a half or two dozen reputed quart bottles, to be drank or consumed elsewhere than on the premises where sold, shall be deemed a dealer in beer; and every person who shall keep a common inn, alehouse, or victualling house, and sell beer, ale, and cyder, and wines and spirituous liquors, by retail, to be drank and consumed on the premises, shall take out the several licences now by law required, under the same rules, regulations, restrictions, powers, authorities, provisions, penalties, and forfeitures, as such licences are now granted and issued under.

23. NOTHING IN THIS ACT TO INTERFERE WITH THE RIGHTS OF MAGISTRATES, TRUSTEES, &C. IN CITIES, BURGHS, AND PLACES IN SCOTLAND, TO COLLECT THEIR LOCAL DUTIES ON BEER AND ALE—BREWERS IN SUCH PLACES TO MAKE MONTHLY RETURNS OF THE BEER BREWED AND SOLD BY THEM.—And whereas in the city of Edinburgh, and in other cities, towns, burghs, and places, in that part of Great Britain called Scotland, by several statutes heretofore passed certain rates, impositions, and duties are imposed and collected on beer and ale, to and for the use of the said cities, towns, burghs, and places, and are appropriated and applied to certain purposes specified in the several statutes imposing the same, for the levying and collecting of which said rates, impositions, and duties the charges made by his Majesty's officers for levying and collecting such revenue of excise, or an abstract thereof under the hands of the officers of excise, have been available to the magistrates of the city of Edinburgh, and the other cities, towns, burghs, and other places aforesaid, for levying and collecting the said rates, impositions, and duties: And whereas by reason of the duties on beer and ale payable to his Majesty ceasing to be collected under the provisions of this Act the magistrates of the said cities, towns, burghs, and other places will be deprived of the means heretofore used for raising, collecting, and levying the said rates, impositions, and duties; and it is therefore expedient, in order to prevent any injury or loss to any of the said cities, towns, burghs, or places, in which such rates, impositions, or duties are payable, to provide means for the due collection and payment thereof: Be it therefore enacted, that nothing in this Act contained shall affect or be deemed or construed to affect, alter, or in any manner interfere with the right or title of the magistrates of the city of Edinburgh, or of any other city, town, burgh, or place, in Scotland, or of any trustees or body corporate, or other person or persons, having right by any of the statutes aforesaid to collect, receive, raise, and recover any rates, impositions, or duties now payable on beer or ale within the same; and that in order to the due collection, raising, levying, and recovering thereof every brewer of beer or ale, liable to the payment of any such rates, impositions,

and duties in the city of Edinburgh, or in any other city, town, burgh, or place, shall, at the end of every month make a true and particular entry or return to the magistrates, or the trustees, body corporate, or other person or persons, having the right to collect such rates, impositions, and duties within the city, town, burgh, or place in which such brewer shall reside or carry on his brewery, or to such person or persons as the magistrates, trustees, body corporate, or other person or persons having such right shall appoint, of all beer or ale which such brewer shall have brewed or made in that month preceding; and such brewer shall also at the end of every month make a true and particular entry or return to the magistrates or the trustees or body corporate or person or persons having right as aforesaid, or to such other person or persons as shall be appointed in that behalf as aforesaid, of all beer or ale which such brewer shall have sold without the limits of the city, town, burgh, or place in which such brewer shall reside or carry on his brewery, or within which such votes, duties, and impositions shall be payable; and every such entry or return shall, if required by the magistrate or other person or persons aforesaid, be verified on the oath or affirmation (which oath or affirmation any one of the magistrates of the city, town, burgh, or place is hereby authorized and empowered to administer) of the said brewer, or his principal workman or servant; and it shall and may be lawful for the magistrates, trustees, body corporate, or other person or persons, having such right as aforesaid, within every city, town, burgh, and place respectively, to collect, recover, levy, raise, and enforce the payment of the said rates, impositions, and duties payable within such city, town, burgh, and place respectively, according to the quantity of beer or ale mentioned in such two several entries or returns, in the manner, and by the same means, powers, penalties, and forfeitures, and authorities, as they are now empowered to raise, levy, collect, and enforce the same, or as any other rates, impositions, and duties payable within any such city, town, burgh, or place may be raised, levied, collected, and enforced, or by ordinary action in any competent court: Provided always, that all and every brewer and other person and persons shall remain entitled to and shall receive all such allowances and drawbacks, in respect to such rates, impositions, and duties, as they are now entitled to.

24. Penalty on Brewers neglecting or refusing to make Returns, or making False Returns.—If any brewer of beer or ale shall neglect or refuse to make any such entry or return, or to verify the same when required so to do, or shall make any false or untrue entry or return, every such brewer shall forfeit and pay the sum of twenty pounds, to be recovered and applied in the same manner, and under the same powers, provisions, and authorities, as any other penalty or forfeiture may be recovered or applied under any Act or Acts of Parliament granting the rates, impositions, and duties on beer and ale in the city, town, burgh, or place in which such refusal or neglect shall occur, or such false or untrue entry be made.

CHAPTER LIV.

The Fisheries (Scotland) Act, 1830 (*Short Titles Act*, 1896).

An Act to revive, continue, and amend several Acts relating to the Fisheries.[1]
[16th July 1830.]

[1] *The whole Act is rep.*, 30 & 31 *Vict. c.* 52, *s.* 9, *in so far as necessary to give effect to the provisions of that Act; and is also rep.* 31 & 32 *Vict. c.* 45, *s.* 71, *as to so much as is inconsistent with that Act.*

[*Preamble recites* 48 *Geo.* 3, *c.* 110; 55 *Geo.* 3, *c.* 94; 1 & 2 *Geo.* 4, *c.* 79; 5 *Geo.* 4, *c.* 64; *and* 7 *Geo.* 4, *c.* 34.]

1. Nothing in the Acts 5 Geo. 4, c. 64, and 7 Geo. 4, c. 34, has repealed the Powers of the recited Acts of 48 and 55 Geo. 3, and 1 & 2 Geo. 4, so far as they relate to marking or branding Barrels of Herrings.—Nothing in the said Acts passed in the fifth and seventh years of the reign of his late Majesty King George the Fourth hath repealed or rendered ineffectual so much of the said Acts passed in the forty-eighth and fifty-fifth years of the reign of his late Majesty King George the Third and of the first and second year of the reign of his late Majesty King George the Fourth, as relates to the placing a mark or character on barrels or half barrels containing herrings

properly cured, save only so far as respects the payment of any bounties therein mentioned; and that, save and except so far as respects the said bounties, the said Acts passed in the forty-eighth and fifty-fifth years of the reign of his said late Majesty King George the Third, and in the first and second years of the reign of his late Majesty King George the Fourth, with reference to the placing a mark or character on barrels containing herrings properly cured, and every other provision and regulation of the said Acts which were in force on the said fifth day of April one thousand eight hundred and thirty, are and is and shall be in full force, virtue, and effect, as though the said Acts so passed in the fifth and seventh years of the reign of his late Majesty King George the Fourth had not been made.

2. Old Barrels employed in the Fisheries with an old Official Brand to be forfeited, with their Contents.—If any person or persons shall ship or put on board any ship, vessel, or boat about to be employed in the said fisheries any old barrels or any old half barrels theretofore employed in the said fisheries which at the time of such shipment shall bear any official brand theretofore affixed thereupon under and in pursuance of the said Acts or any of them, or of this present Act, or shall pack any herrings or other fish in any such old barrels or half barrels, all such old barrels or any old half barrels, and the herrings or other fish, shall be forfeited.

3. Declarations, &c. required to be made on Oath by recited Acts of 48 and 55 Geo. 3, may be made on Affirmation—Penalty for False Declaration.—And whereas by the said Acts passed in the forty-eighth and fifty-fifth years of the reign of his late Majesty King George the Third various oaths were required to be taken for the protection of his Majesty's revenue, and it is no longer necessary that, with a view to that object, such oaths should continue to be administered: Be it therefore enacted, that all persons who, under and by virtue of the said recited Acts of the forty-eighth and fifty-fifth years of the reign of his late Majesty King George the Third, were required to make any such declaration or statement on oath, shall henceforth be admitted to make such declaration or statement on their, his, or her affirmation, and without oath; and if any person shall wilfully and corruptly make any such declaration or statement falsely, every such person shall incur and become liable to a fine of not less than ten pounds nor more than twenty pounds.

[*S.* **4** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

5. Recovery of Forfeitures under this Act.—All penalties and forfeitures hereby imposed shall be sued for, recovered, and applied by such and the same persons, in such and the same manner, and to such and the same purposes, as any penalties and forfeitures incurred under the said Acts of the forty-eighth and fifty-fifth years of the reign of his said late Majesty King George the Third may be sued for, recovered, mitigated, and applied.

[*S.* **6** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

CHAPTER LXVIII.

The Carriers Act, 1830 (*Short Titles Act*, 1896).

An Act for the more effectual Protection of Mail Contractors, Stage Coach Proprietors, and other Common Carriers for Hire, against the Loss of or Injury to Parcels or Packages delivered to them for Conveyance or Custody, the Value and Contents of which shall not be declared to them by the Owners thereof. [23d July 1830.]

[*Preamble.*]

1. Mail Contractors, Coach Proprietors, and Carriers not to be liable for loss of certain goods above the value of L.10 unless they are delivered as such, and an increased charge accepted.—No mail contractor, stage coach proprietor, or other common carrier by land for hire shall be liable for the loss of or injury to any article or articles or property of the descriptions following; (that is to say,) gold or

silver coin of this realm or of any foreign state, or any gold or silver in a manufactured or unmanufactured state, or any precious stones, jewellery, watches, clocks, or time-pieces of any description, trinkets, bills, notes of the governor and company of the Banks of England, Scotland, and Ireland respectively, or of any other bank in Great Britain or Ireland, orders, notes, or securities for payment of money, English or foreign, stamps, maps, writings, title deeds, paintings, engravings, pictures, gold or silver plate or plated articles, glass, china, silks in a manufactured or unmanufactured state, and whether wrought up or not wrought up with other materials, furs, or lace, or any of them, contained in any parcel or package which shall have been delivered, either to be carried for hire or to accompany the person of any passenger in any mail or stage coach or other public conveyance, when the value of such article or articles of property aforesaid contained in such parcel or package shall exceed the sum of ten pounds, unless at the time of the delivery thereof at the office, warehouse, or receiving house of such mail contractor, stage coach proprietor, or other common carrier, or to his, her, or their book-keeper, coachman, or other servant, for the purpose of being carried or of accompanying the person of any passenger as aforesaid, the value and nature of such article or articles or property shall have been declared by the person or persons sending or delivering the same, and such increased charge as herein-after mentioned, or an engagement to pay the same, be accepted by the person receiving such parcel or package.

2. When any Parcel shall be so delivered an increased rate of charge may be demanded—Notice of such charge to be affixed in Offices or Warehouses.—When any parcel or package containing any of the articles above specified shall be so delivered, and its value and contents declared as aforesaid, and such value shall exceed the sum of ten pounds, it shall be lawful for such mail contractors, stage coach proprietors, and other common carriers to demand and receive an increased rate of charge, to be notified by some notice affixed in legible characters in some public and conspicuous part of the office, warehouse, or other receiving house where such parcels or packages are received by them for the purpose of conveyance, stating the increased rates of charge required to be paid over and above the ordinary rate of carriage as a compensation for the greater risk and care to be taken for the safe conveyance of such valuable articles; and all persons sending or delivering parcels or packages containing such valuable articles as aforesaid at such office shall be bound by such notice, without further proof of the same having come to their knowledge.

3. Carriers to give Receipts for increased charges—In case of neglect to give Receipt or affix Notice, Carriers shall not be entitled to benefit of this Act.—Provided always, that when the value shall have been so declared, and the increased rate of charge paid, or an engagement to pay the same shall have been accepted as herein-before mentioned, the person receiving such increased rate of charge or accepting such agreement shall, if thereto required, sign a receipt for the package or parcel, acknowledging the same to have been insured, which receipt shall not be liable to any stamp duty; and if such receipt shall not be given when required, or such notice as aforesaid shall not have been affixed, the mail contractor, stage coach proprietor, or other common carrier as aforesaid, shall not have or be entitled to any benefit or advantage under this Act, but shall be liable and responsible as at the common law, and be liable to refund the increased rate of charge.

4. Public Notices or Declarations by Carriers not to limit their liability, but they shall remain liable for all losses from which they are not protected by this Act.—Provided always, that no public notice or declaration heretofore made or hereafter to be made shall be deemed or construed to limit or in anywise affect the liability at common law of any such mail contractors, stage coach proprietors, or other public common carriers as aforesaid, for or in respect of any articles or goods to be carried and conveyed by them; but that all and every such mail contractors, stage coach proprietors, and other common carriers as aforesaid shall be liable, as at the common law, to answer for the loss of any injury to any articles and goods in respect whereof they may not be entitled to the benefit of this Act, any public notice or declaration by them made and given contrary thereto, or in anywise limiting such liability, notwithstanding.

S. 4 *in part rep.* 51 & 52 *Vict. c.* 57 (*S.L.R.*).

5. Every Office used to be deemed a Receiving House; and any one Coach Proprietor, &c. may be sued—Action not to abate for non-joinder of Co-proprietors.

—For the purposes of this Act every office, warehouse, or receiving house, which shall be used or appointed by any mail contractor or stage coach proprietor or other such common carrier as aforesaid for the receiving of parcels to be conveyed as aforesaid, shall be deemed and taken to be the receiving house, warehouse, or office of such mail contractor, stage coach proprietor, or other common carrier; and any one or more of such mail contractors, stage coach proprietors, or common carrier shall be liable to be sued by his, her, or their name or names only; and no action or suit commenced to recover damages for loss or injury to any parcel, package, or person shall abate for the want of joining any co-proprietor or co-partner in such mail, stage coach, or other public conveyance by land for hire as aforesaid.

6. SPECIAL CONTRACTS NOT AFFECTED.—Provided always, that nothing in this Act contained shall extend or be construed to extend or in anywise affect any special contract between such mail contractor, stage coach proprietor, or common carrier, and any other parties, for the conveyance of goods and merchandises.

7. PARTIES ENTITLED TO DAMAGES FOR LOSS MAY ALSO RECOVER THE INCREASED CHARGES.—Provided also, that where any parcel or package shall have been delivered at any such office, and the value and customs declared as aforesaid, and the increased rate of charges been paid, and such parcels or packages shall have been lost or damaged, the party entitled to recover damages in respect of such loss or damage shall also be entitled to recover back such increased charges so paid as aforesaid, in addition to the value of such parcel or package.

8. NOTHING HEREIN TO PROTECT FELONIOUS ACTS.—Provided also, that nothing in this Act shall be deemed to protect any mail contractor, stage coach proprietor, or other common carrier for loss from liability to answer for loss or injury to any goods or articles whatsoever arising from the felonious acts of any coachman, guard, book-keeper, porter, or other servant to his or their employ, nor to protect any such coachman, guard, book-keeper, or other servant from liability for any loss or injury occasioned by his or their own personal neglect or misconduct.

9. CERTAIN PROPRIETORS AND CARRIERS LIABLE ONLY TO SUCH DAMAGES AS ARE DECLARED.—Provided also, that such mail contractors, stage coach proprietors, or other common carriers for hire shall not be considered as to the value of any such parcel or package by the value so declared as aforesaid, but that he or they shall in all cases be entitled to recover from the party suing in respect of any loss or injury, proof of the actual value of the property by the ordinary legal evidence, and that the mail contractors, stage coach proprietors, or other common carriers as aforesaid shall be liable to such damages only as shall be so proved as aforesaid, not exceeding the declared value, together with the increased charges as before mentioned.

10. MONEY MAY BE PAID INTO COURT IN ALL ACTIONS FOR LOSS OF GOODS.—In all actions to be brought against any such mail contractor, stage coach proprietor, or other common carrier as aforesaid, for the loss of or injury to any goods delivered to be carried whether the value of such goods shall have been declared or not, it shall be lawful for the defendant or defendants to pay money into court in the same manner and with the same effect as money may be paid into court in any other action.

[*S.* 11 *repd.* 51 & 52 *Vict. c.* 57 (*S.L.R.*).]

CHAPTER LXIX.

THE COURT OF SESSION ACT, 1830 (*Short Titles Act*, 1896).

AN ACT for uniting the Benefits of Jury Trial in Civil Causes with the ordinary Jurisdiction of the Court of Session, and for making certain other Alterations and Reductions in the Judicial Establishments of Scotland.[1]

[23d July 1830.]

[1 *This Act is repd.* 13 & 14 *Vict. c.* 36, *s.* 56, *in so far only as it may be in any respect inconsistent with or varied by provisions of that Act.*

[*Preamble omitted.* 55 *Geo.* 3, *c.* 42, 59 *Geo.* 3, *c.* 35, 6 *Geo.* 4, *c.* 120.]

1. TRIAL BY JURY IN CIVIL CAUSES SHALL BE UNITED WITH THE ORDINARY ADMINIS-

Trial of Issues in the Court of Session in Scotland.—The jurisdiction for trial by jury in civil causes shall be united with and shall form part of the ordinary existing jurisdiction of juries in the Court of Session in Scotland; and the trial of causes by jury shall take place in the Court of Session as hereinafter directed: . . . . . .

S. 1 in part rep. 36 & 37 Vict. c. 91 (S.L.R.).

2. Causes to be prepared for Trial by the Lords Ordinary, and tried by Juries in the Court of Session.—All causes and issues, which, if they had occurred before the passing of this Act, would be by law have been tried by jury in the jury court, shall be tried by jury in the Court of Session; and such causes shall be prepared for trial by the lords ordinary respectively before whom such causes shall depend.

3. Lords Presidents to try all Jury Causes originating in their respective Divisions.—Provision in case of absence of Lord President.—The lords president of the two divisions shall respectively try by jury all issues arising out of causes depending in those divisions respectively, which shall take place at Edinburgh; and may exercise respectively the charge of those previously assigned to the lord chief commissioner in so far as may regard such causes, not being inconsistent with the provisions of this Act: . . . . . provided further, that in the event of the indisposition or necessary absence of either of the said lords president, such issues shall . . . be tried by any other judge or judges of the division of the court before which the cause may depend.

S. 3 in part rep. 36 & 37 Vict. c. 91 (S.L.R.).

[*S.* 4 *rep. 36 & 37 Vict. c.* 91 (*S.L.R.*).]

5. Application for Trial of Issues before either Division of the Court.—It shall and may be lawful for either party to apply to the division of the court to which a cause belongs, that the issue or issues shall be tried before such division; and such division may or may not in its discretion, order such cause to be so tried.

6. Lord President of each Division may direct Issues to be tried before his Division.—The lord president of each division of the court shall have power, and he is hereby authorised and empowered, to order and direct that any issue or issues shall be tried before the division of the court to which he belongs: . . . . . .

S. 6 in part rep. 36 & 37 Vict. c. 91 (S.L.R.).

7. Proceedings in Error, Questions reserved, &c. to be taken before the Division to which the Cause belongs—The Division may order them to be tried before the whole Court, or require the Opinion of the other Judges.—All proceedings for the correction of errors or injustice alleged to have been committed in the trial of a cause, and all questions reserved for decision after trial, and all questions relating to the application of the verdict, or the rights and interests arising therefrom, and all questions of expenses, shall proceed before the division of the court to which the cause belongs: Provided always, that such division shall have power to order a hearing before the whole Court of Session or to require the opinions of the other judges on such points or questions as such divisions may deem proper.

[*S.* 8 *rep. 36 & 37 Vict. c.* 91 (*S.L.R.*).]

9. Trials by Jury may proceed at such times as the Division shall appoint.—Trials by jury may proceed at all such times, as well during session as in the vacation, as the division of the court before which the cause stands inrolled shall appoint; and all causes remaining inrolled and entered as ready for trial at the termination of the winter or summer sessions, or at the commencement of the Christmas recess, shall be tried at sittings of the court to be held immediately after these periods respectively, excepting only such causes as, on the motion of any party, the court may think fit to postpone.

10. Provision for extending the Winter and Summer Sessions—Their duration may be varied.—It shall and may be lawful for his Majesty, with consent of his privy council, and he is hereby empowered, if he shall think fit, to order and direct that the winter and summer sessions of the Court of Session, or either of them, shall be extended, and to specify the time or times of such extension, and the juridic (juridical)

thereof, and to direct that such extension shall apply either to the whole Court of Session, or exclusively to the permanent lords ordinary: Provided always, that such extension shall not on the whole exceed the space of one calendar month in the course of the year; and that it shall in like manner be lawful for his Majesty thereafter to direct that such extension be diminished as to duration, and altered or varied as to the time or times when the same shall take place, and that the sessions shall in like manner be again extended as occasion may require, and the said court, or the permanent lords ordinary, shall sit at the time or times and during the period or periods which may be so ordered by his Majesty; . . . . . .

S. 10 *in part rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).

11. Trial of Issues before Circuit Courts.—All causes or issues appointed to be tried before any circuit court shall and may be so tried before any one or more of the judges of the Court of Justiciary when upon circuit; and at all trials before any circuit court the jury shall be taken from the lists prepared for the trial of criminal offences: Provided always, that it shall be competent to either division of the Court of Session, if in their judgment it shall be considered necessary, to direct any causes or issues to be tried by any other judge or judges of the Court of Session at any circuit town, and, if necessary for the trial of the same, to cause jurymen to be summoned in the manner provided by the before recited Acts.

[*S.* **12** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

13. Reduction of Clerks, &c. in the Court of Session.—The two vacancies which shall next occur in the office of principal clerk of session, as also in the office of depute clerk of session, shall not be supplied; and in like manner the vacancies in the offices of the other clerks belonging to the Court of Session shall not be supplied, until the total number of such clerks, including those connected with proceedings in trial by jury, shall not exceed the number of clerks exclusively belonging to the Court of Session at the passing of this Act; and it shall be lawful for the said court, from time to time as said vacancies occur, to make such regulations as may be necessary for duly apportioning the duty among the remaining clerks; and as vacancies shall occur in the office of macer the number of macers shall be reduced, so that they shall not exceed the number of macers officiating exclusively in the Court of Session at the passing of this Act.

14. Appointment of Depute Clerks and Assistant Clerks of Session.—The appointment of depute clerks and of assistant clerks of session shall be vested in his Majesty . . . . . .

S. 14 *in part rep.* 53 *&* 54 *Vict. c.* 33 (*S.L.R.*).

15. Certain Causes to be exempted from the Fee Fund.—No payment on account of the fee fund of the Court of Session, nor any fee or demand by any clerk or officer of that court, shall be exigible in respect of any step or proceeding in any cause which might not have been exigible if such cause had been brought into the jury court previously to the passing of this Act.

16. Provisions of recited Acts to remain in force where not inconsistent with this Act—Rules of Jury Court, &c. to remain in force until altered by Act of Sederunt—Acts of Sederunt to be laid before Parliament.—All the provisions of the foresaid recited Acts now in force, in so far as not inconsistent with this Act, shall be continued and remain in force until altered or revoked by Parliament; and . . . the said Court of Session shall have full power and authority, by acts of sederunt, to make all regulations for duly adapting the forms previously observed in the jury court to the proceedings in the Court of Session, and afterwards to alter and amend such regulations when necessary: Provided always, that such regulations be not inconsistent with the provisions of this or any other Act of Parliament now in force; and that all acts of sederunt authorized by this Act to be made shall be laid before Parliament, if sitting, within fifteen days from the respective dates thereof, and if Parliament be not sitting, within fifteen days from and after the next meeting of Parliament.

S. 16 *in part rep.* 53 *&* 54 *Vict. c.* 33 (*S.L.R.*).

[*S.* **17** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

18. Office of Lord Justice General to devolve on Lord President—Macers.—

. . . The office of lord justice general shall devolve upon and remain united with the office of lord president of the Court of Session, who shall perform the duties thereof as presiding judge in the Court of Justiciary; . . . and the appointment of macers of the said court shall be vested in his Majesty.

S. 18 *in part rep.* 53 & 54 *Vict. c.* 33 (*S.L.R.*).

19. The Lord President may dispatch Business in any Circuit Court notwithstanding Act of the Scotch Parliament 1672, c. 40, or 20 Geo. 2, c. 43.—When the office of lord justice general shall have devolved upon the lord president of the Court of Session, and when he shall deem it expedient to be present at any circuit court, it shall be lawful for him to dispatch business in such court, whether any other judge or judges of the Court of Justiciary be or be not present; any thing contained in an Act of the Parliament of Scotland, passed in the year one thousand six hundred and seventy-two, intituled "An Act concerning the regulation of the judicatories," or in an Act passed in the twentieth year of the reign of his Majesty King George the Second, intituled "An Act for taking away and abolishing the heritable jurisdictions in that part of "Great Britain called Scotland, and for making satisfaction to the proprietors thereof, "and for restoring such jurisdictions to the crown, and for making more effectual "provision for the administration of justice throughout that part of the United Kingdom, "by the King's courts and the judges there, and for rendering the union of the king-"doms more complete," or in any other law or custom to the contrary notwithstanding.

20. Lords Ordinary to be reduced to five, and the whole Court of Session to thirteen Judges.—When vacancies shall occur among the permanent lords ordinary of the Court of Session, whether by death, resignation, or removal into one of the divisions of the inner house, such vacancies shall not be filled up until the number of permanent lords ordinary shall be reduced to five, so that the total number of judges composing the Court of Session, including the lord president and the lord justice clerk, shall be limited to thirteen.

21. Jurisdiction of High Court of Admiralty transferred to Court of Session—Causes under L.25 to be instituted in Inferior Courts—1672, c. 40.—[*Recital*] . . . The Court of Session shall hold and exercise original jurisdiction in all maritime civil causes and proceedings, of the same nature and extent in all respects as that held and exercised in regard to such causes by the High Court of Admiralty before the passing of this Act; and all applications of a summary nature connected with such causes may be made to the lord ordinary on the bills: Provided always, that all such causes, not exceeding the value of twenty-five pounds sterling, shall be instituted and carried on in the first instance before an inferior court, in the manner directed and with the exceptions specified in an Act of the Parliament of Scotland, passed in the year sixteen hundred and seventy-two, intituled "An Act concerning the regulation of the "judicatories."

S. 21 *in part rep.* 53 & 54 *Vict. c.* 51 (*S.L.R.*).

22. Sheriffs to have Jurisdiction in Maritime Causes.—The sheriffs of Scotland and their substitutes shall, within their respective sheriffdoms, including the navigable rivers, ports, harbours, creeks, shores, and anchoring grounds, in or adjoining such sheriffdoms, hold and exercise original jurisdiction in all maritime causes and proceedings, civil and criminal, including such as may apply to persons residing furth of Scotland, of the same nature as that heretofore held and exercised by the High Court of Admiralty.

23. Maritime Causes to be tried by Sheriff in same manner as other Causes—10 Geo. 4, c. 55—Sentences to be subject to the like review as their other Sentences.—The finding of caution and using of arrestment heretofore observed in the High Court of Admiralty, and all regulations relative thereto, may be enforced in the foresaid courts respectively; and maritime causes may be heard and determined by the sheriff according to the same modes and rules which are applicable in the sheriff court to causes not maritime, including the mode prescribed in an Act passed in the tenth year of the reign of his late Majesty King George the Fourth, intituled "An Act for the "more effectual recovery of small debts, and for diminishing the expences of litigation "in causes of small amount, in the sheriff courts in Scotland"; and the sentences, interlocutors, and decrees pronounced by sheriffs in maritime causes shall be subject to review by the courts of Session and Justiciary respectively, in the same way and manner

in which sentences, interlocutors, and decrees of sheriffs in similar causes not maritime are subject to review at present, and not otherwise: Provided always, that it shall not be competent to the sheriff to try any crime committed on the seas of a nature which it would not be competent for that judge to try if the crime had been committed on land.

24. Provision when Counties are separated by Water — Where several Defendants reside in different Counties—Sheriffs may remit causes to the Courts of other Sheriffs.—Where counties are separated from each other by a river, or by a firth or estuary, the sheriffs of the counties adjoining to the sides thereof shall have a cumulative jurisdiction over the whole intervening space so occupied by water: Provided always, that the pursuer of all civil causes shall, where such cumulative jurisdiction applies, bring the cause before the sheriff of that county within which the defender may reside; and where there are several defenders in the same cause, residing in different counties, the same rules shall apply in regard to the citation of the whole of such defenders before the same sheriff court, which are observed in similar circumstances with respect to causes not maritime; and sheriffs shall respectively have power to remit such causes from their own court to that of another sheriff ob contingentiam, or for other sufficient cause.

[*Ss.* **25, 26** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

27. Sheriff Clerks to act as Clerks to Sheriffs in Maritime Causes.—The sheriff clerks of the several counties of Scotland shall respectively act as clerks to the sheriffs in maritime causes: Provided always, that neither that officer, nor any other person appointed to any office, or acquiring right to any fees or emoluments in virtue of the provisions of this Act, shall be entitled to prefer any claim to compensation in consequence of the subsequent abolition of such office or fees, or of any alteration therein.

[*S.* **28** *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).]

29. Inferior Admiralty Jurisdiction to continue as before, subject to Review of Courts of Session and Justiciary—Proviso as to Sheriff Substitute of Leith.—All inferior Admiralty jurisdiction, not dependent upon the High Court of Admiralty, shall continue as heretofore, but the judgments of such courts shall be subject to review solely in the courts of Session and Justiciary respectively: Provided always, that nothing herein contained shall extend or be construed to extend to lessen or take away any salary or allowance now payable to the sheriff substitute of the district of the town of Leith by the commissioners of police of the said town, but the same shall continue to be paid as heretofore.

30. Each of the Sheriffdoms of Edinburgh, Haddington, and Linlithgow to constitute a Commissariot under 4 Geo. 4, c. 97.—*And be it enacted that so much of an Act passed in the fourth year of the reign of his late Majesty King George the Fourth, intituled "An Act for the regulation of the court of the commissaries of Edinburgh, and "for altering and regulating the jurisdiction of inferior commissaries in Scotland," as provides that the sheriffdoms of Edinburgh, Haddington, and Linlithgow shall be the commissariot of Edinburgh, be repealed; and* [*Rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*)] the commissariot of Edinburgh shall comprehend only the sheriffdom of Edinburgh; and the sheriffdoms of Haddington and Linlithgow shall each constitute a commissariot, and the whole other provisions of the said recited Act shall apply to the said sheriffdoms of Haddington and Linlithgow in the same way in all respects as the same apply to the other sheriffdoms of Scotland where the sheriff is commissary.

[*S.* **31** *rep.* 53 *&* 54 *Vict. c.* 33 (*S.L.R.*).]

32. Actions of Aliment may be instituted in Sheriffs Courts.—Actions of aliment may be instituted, heard, and determined in any sheriff court of Scotland.

33. Consistorial Actions to be instituted in the Court of Session.—All actions of declarator of marriage, and of nullity of marriage, and all actions of declarator of legitimacy and of bastardy, and all actions of divorce, and all actions of separation a mensâ et thoro, shall be competent to be brought and insisted on only before the Court of Session.

[*S.* **34** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).]

35. Judgments of Lords Ordinary in Consistorial Actions subject to Review.—

. . . The judgments of the lords ordinary, in these and in all other actions of the same description instituted in the Court of Session, shall be subject to the review of the division of the court to which the lord ordinary may belong, in the same way as in other civil causes.

S. 35 *in part rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).

36. Regulations in regard to Consistorial Actions.—The lord ordinary shall in all actions of divorce administer the usual oath of calumny to the pursuer; and no decree or judgment in favour of the pursuer shall be pronounced in any of the consistorial actions herein-before enumerated, whether appearance shall or shall not be made for the defendant, until the grounds of action shall be substantiated by sufficient evidence.

37. As to Trial of Issues in such Causes by Jury—Swearing of Witnesses in such Causes.—Such causes shall not be appropriate to trial by jury, but it shall be competent to either division of the Court of Session, or to a lord ordinary after advising with the division of the court to which he belongs, to direct that any such cause, or any issue or issues of fact connected therewith, be tried by jury; and in the swearing of witnesses in consistorial causes the same oath shall be administered that is in use in the other courts of justice in Scotland.

[*S.* **38** *rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*); *s.* **39** *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).]

40. Summonses in Maritime and Consistorial Causes—Agents Fees.—Summonses in maritime and consistorial causes instituted in the Court of Session shall be signed by one of the principal or depute clerks of session, and it shall not be necessary that any such summons should pass the signet, or require any concurrence for the public interest; and for conducting such causes in the Court of Session no agent shall be entitled to a higher rate of charge for any part of such duty than such as would have been legally exigible for the same duty in the High Court of Admiralty, or in the court of the commissaries of Edinburgh respectively, before the passing of this Act; and no fee or demand on account of the fee fund of the Court of Session, or on account of any clerk or officer in that court, shall be due or exigible in any such cause.

S. 40 *rep., so far as it exempts maritime and consistorial causes from the ordinary fees exigible in the Court of Session,* 52 *&* 53 *Vict. c.* 54, *s.* 9.

Ss. **41–43, 45,** *and Schedule, rep.* 36 *&* 37 *Vict. c.* 91 (*S.L.R.*).; *s.* **44** *rep.* 53 *&* 54 *Vict. c.* 33 (*S.L.R.*); *s.* **46** *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).]

CHAPTER LXXI.

The Acts of Parliament (Mistaken References) Act, 1830 (*Short Titles A* 1896).

An Act for correcting mistaken References to Acts of His late Majesty in Acts passed during the present Session of Parliament. [23d July 1830.]

[*Preamble.*]

1. Mistaken References not to invalidate any Acts of the present Session.—Every Act of Parliament which has passed in this present session of Parliament, in which any Act of Parliament actually passed in the reign of his late Majesty shall be referred to, either by way of recital, enactment, or otherwise, as an Act of his present Majesty's reign, shall be deemed, construed, and taken as referring to every such last-mentioned Act of Parliament accurately and correctly as of the reign of his late Majesty; and no such mistaken or inaccurate reference shall in anywise impeach, affect, or invalidate any Act of Parliament passed in this present session of Parliament, or any clause or provision thereof.

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1 & 2 WILLIAM 4, 1831.

CHAPTER IV.

THE EXCISE DECLARATIONS ACT, 1831 (*Short Titles Act*, 1896).

AN ACT to abolish certain Oaths and Affirmations taken and made in the Customs and Excise Departments of His Majesty's Revenue, and to substitute Declarations in lieu thereof.[1] [30th July 1831.]

[1] *So much of this Act as relates to the department of customs, rep.* 3 & 4 *Will.* 4, *c.* 50, *s.* 2.

[*Preamble.*]

1. WHERE AN OATH OR AFFIRMATION IS NOW REQUIRED BY ANY ACT RELATING TO THE CUSTOMS OR EXCISE, A DECLARATION SHALL BE MADE INSTEAD THEREOF, EXCEPT IN THE CASES HEREINAFTER SPECIALLY PROVIDED FOR—PENALTY FOR FALSE DECLARATION.—In all cases where, by any Act or Acts relating to the revenues of customs or excise, any oath, solemn affirmation, or affidavit shall be required to be taken or made by any person on the doing of any act, matter, or thing, or for verifying any book, account, entry, or return, or for any other purpose whatsoever, such oath, solemn affirmation, or affidavit shall no longer, except in the cases herein-after specially provided for, be taken, made, or required, but in lieu thereof the person who would under the Act or Acts of Parliament imposing the same have been required to take or make such oath, solemn affirmation, or affidavit shall, in the presence of the commissioners, collector, or other person empowered by such Act or Acts of Parliament to administer such oath, solemn affirmation, or affidavit, make and subscribe a declaration, setting forth the matters contained in and to the same effect as the oath, solemn affirmation, or affidavit which would have been required if this Act had not been passed, and declaring to the truth thereof; and if any such declaration shall be untrue in any particular the person making the same shall, over and above every other penalty to which such person may become subject, forfeit one hundred pounds.

[*Ss.* **2, 3** *rep.* 3 *&* 4 *Will.* 4, *c.* 50, *s.* 2.]

4. CERTAIN OATHS RELATING TO THE EXCISE REVENUE EXCEPTED.—Provided always, that nothing in this Act contained shall extend to abolish or in any manner to interfere with . . . the oath required to be made by any officer of excise, setting forth the ground of his suspicion of goods forfeited under any Act or Acts relating to the revenue of excise being deposited or concealed in any place, in order to obtaining a warrant for entering such place and seizing such goods; or any oath required by any Act to be made by any person on claiming or receiving any pension or allowance; or the oath required to be made by every exporter of goods, before receiving any drawback from the revenue of excise, that he is the real owner of the goods exported, and that the goods are really and bonâ fide exported to foreign parts and have not been relanded; . . . ; or any oath administered to any person in any judicial proceeding in any court of justice, or before the commissioners of excise or justices of the peace, for recovery of any penalty or forfeiture, or obtaining any abatement, return, or allowance of duties; but all such oaths shall continue to be required, and to be made, taken, and administered, as if this Act had not been passed.

S. 4 *in part rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*); *and* 53 *&* 54 *Vict. c.* 21, *s.* 40.

[*S.* **5** *rep.* 53 *&* 54 *Vict. c.* 21, *s.* 40.]

6. RECOVERY OF PENALTIES.—The penalties by this Act imposed shall be sued for and recovered in the same manner and under the same provisions as any penalty imposed by any Acts relating to the revenues of customs or excise respectively may by law be sued for and recovered.

[*S.* **7, 8** *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).]

CHAPTER XIII.

THE TOBACCO CULTIVATION ACT, 1831 (*Short Titles Act*, 1896).

AN ACT to repeal an Act of the Nineteenth Year of King George the Third, for repealing so much of several Acts as prohibit the Growth and Produce of Tobacco in Ireland, and to permit the Importation of Tobacco of the Growth and Produce of that Kingdom into Great Britain. [23d August 1831.]

Whereas by an Act passed in the twelfth year of the reign of King Charles the Second, intituled "An Act for prohibiting the planting, setting, or sowing of tobacco in England "or Ireland," and by certain other Acts since passed, the setting, planting, or improving to grow, making, or curing any tobacco, either in seed, plant, or otherwise, within the kingdom of England or in the kingdom of Ireland, is prohibited, except in any physic garden of either universities, or in any other private garden for physic or chirurgery, only so as the quantity planted exceed not one half of one pole in any one place or garden: And whereas by an Act passed in the nineteenth year of the reign of his Majesty King George the Third, intituled "An Act to repeal so much of several Acts "of Parliament as prohibit the growth and produce of tobacco in Ireland, and to "permit the importation of tobacco of the growth and produce of that kingdom into "Great Britain under the like duties and regulations as tobacco of the growth of the "British colonies in America is permitted to be imported," so much of the said first recited Act, and of another Act made in the fifteenth year of the reign of King Charles the Second, intituled "An Act for the encouragement of trade," or of any other Act, which prohibited or restrained the setting, planting, or improving to grow, making, or curing tobacco, either in plant, seed, or otherwise, in the kingdom of Ireland, was repealed: And whereas by an Act passed in the twenty-second year of the reign of his said Majesty King George the Third, for explaining the said recited Act, and for permitting the use and removal of tobacco, the growth of Scotland, into England, for a limited time, under certain restrictions, it was enacted and declared, that the said first recited Act of the twelfth year of the reign of King Charles the Second, and every other Act and Acts which had since passed for prohibiting the culture of tobacco in England, should extend and be construed to extend to that part of Great Britain called Scotland: And whereas it is expedient to repeal the said recited Act of the nineteenth year of the reign of his said Majesty King George the Third, and to revive in and extend to Ireland the said recited Act of the twelfth year of King Charles the Second, and of any other Acts since passed for prohibiting the growth and culture of tobacco:

1. 19 *Geo.* 3, *c.* 35, *repealed; and* 12 CHA. 2, C. 34, &C. REVIVED IN AND EXTENDED TO IRELAND—RESTRICTION ON PLANTING, &C. TOBACCO IN UNITED KINGDOM.—*The said recited Act passed in the nineteenth year of the reign of his said Majesty, for repealing so much of the several Acts as prohibited the growth and produce of tobacco in Ireland, shall be repealed; and* [*Rep* 51 *&* 52 *Vict. c.* 57 (*S.L.R.*)] the said recited Act of the twelfth year of the reign of King Charles the Second, and so much of an Act passed in the fifteenth year of the same reign as imposes certain penalties on the growth and culture of tobacco in England and Ireland, and all and every other Act and Acts which have since passed for prohibiting the growth and culture of tobacco in Great Britain, shall be revived in and shall extend to and be deemed and construed to extend to Ireland; and it shall not be lawful to plant, set, improve to grow, or cure, either in seed, plant, or otherwise, any tobacco in any part of the United Kingdom, save and except in the places and in the quantities and for the purposes in the said Acts mentioned and allowed.

2. ACTS TO BE PUT IN FORCE BY OFFICERS OF EXCISE AND CUSTOMS, &C.—The several Acts for prohibiting the growth and culture of tobacco shall and may be put in force, in and throughout the United Kingdom, by the commissioners and by any officer or officers of customs or excise; and all sheriffs, mayors, bailiffs, and constables, and every of them, shall act in execution of the said Acts on the information of any officer of excise as well as of any officer of customs.

3. PENALTIES AND FORFEITURES TO BE SUED FOR, AND SEIZURES TO BE CONDEMNED, &C. UNDER ACTS RELATING TO CUSTOMS AND EXCISE.—The several penalties and forfeitures in and by the said Acts of the twelfth and fifteenth years of the reign of King Charles

the Second, or by this or any other Act prohibiting the growth and culture of tobacco, imposed, shall and may be sued for, recovered, and levied, and all seizures under the said Acts condemned, by the same means, and in the same manner, and under the same rules, restrictions, and regulations, as any penalties or forfeitures may be sued for, recovered, and levied, or any seizure condemned, under any Act or Acts relating to the revenues of customs or excise; and all such penalties and forfeitures shall, when recovered, be applied and disposed of in the same manner as penalties and forfeitures are directed by the said last-mentioned Acts or any of them to be applied and disposed of; and all tobacco the growth of any part of the United Kingdom, and all snuff made from such tobacco, seized and condemned, shall be disposed of in the same manner as goods prohibited to be imported.

4. Penalty on having Tobacco the growth of the United Kingdom in possession, &c.—If any tobacco the growth or produce of any part of the United Kingdom, manufactured or unmanufactured, or mixed with any tobacco of foreign growth, shall be delivered to, received by, or found in the possession of any manufacturer, dealer in, or retailer of tobacco or snuff, in any quantity whatsoever, or if any such tobacco shall be delivered to, or received by, or be found in the possession of any other person or persons whatsoever, in any quantity exceeding one pound in weight, or if any manufacturer or dealer in or retailer of tobacco or snuff shall manufacture or use any tobacco of the growth of any part in the United Kingdom, or shall mix any such tobacco with any tobacco of foreign growth, or with any snuff made from tobacco of foreign growth, or if any manufacturer, dealer in, or retailer of tobacco or snuff shall purchase or sell any tobacco of the growth of any part of the United Kingdom, or any tobacco or snuff manufactured in the whole or in part from tobacco the growth of any part of the United Kingdom, or if any person whatsoever shall sell or dispose of any such tobacco, every such manufacturer, dealer, and retailer, and other person so offending in any of the cases respectively aforesaid shall for every such offence forfeit the sum of one hundred pounds; and all such tobacco of the growth of any part of the United Kingdom, manufactured or unmanufactured, mixed or unmixed, and all snuff made wholly or in part from any such tobacco, shall be forfeited, and may be seized by any officer of customs or excise.

[*Ss.* **5–7** *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).]

CHAPTER XXI.

The Land Tax Act, 1831 (*Short Titles Act*, 1896).

An Act to explain and amend Two Acts of the Thirty-fourth and Thirty-eighth Years of His Majesty King George the Third, so far as the same relate to Double Assessments of the Land Tax. [22d September 1831.]

[*Preamble recites* 4 *Will. & Mar. c.* 1, 1 *Geo.* 1, *st.* 2, *c.* 55, 34 *Geo.* 3, *c.* 8, 38 *Geo.* 3, *c.* 60.]

1. Where Lands are charged with a Double Rate the Commissioners of the Land Tax shall, upon Complaint, examine into the matter, and if satisfied of the truth thereof, certify the same to the Treasury—Form of Certificate—The Treasury, upon being satisfied of the accuracy of the Certificate, shall order the Commissioners of the District to discharge such Double Land Tax—Proviso as to Lands purchased subject to such Double Tax.—In all cases of assessment for any year commencing, where any manors, lands, tenements, rents, hereditaments, or estates, which shall have a proportion to raise by virtue of the said last-recited Act of the thirty-eighth year of the reign of his said Majesty King George the Third, shall be charged with a double rate by the valuation and assessment of the same manors, lands, tenements, rents, hereditaments, or estates for the former aid of four shillings in the pound which was made in pursuance of the said Act of the fourth year of the reign of their said late Majesties King William and Queen Mary, and in all cases where such double tax shall have been so charged on any estates, and such estates have not under the provisions of the said Acts been made liable to a single assessment only, it shall be

lawful for the commissioners of the land tax for the respective counties, districts, or divisions where any such manors, lands, tenements, rents, hereditaments, or estates are situate, upon complaint thereof before them being first made by or on behalf of the owner or occupier of such manors, lands, tenements, rents, hereditaments, or estates as aforesaid, to examine into the matter of such complaint, and to satisfy themselves of the truth thereof, and, if they think necessary, to require proof thereof by the oaths of two credible witnesses, or by a certificate or office copy from the clerk of the peace of the county wherein such manors, lands, tenements, rents, hereditaments, or estates are situate, of the registry of such manors, lands, tenements, rents, hereditaments, or estates made pursuant to the before-recited Act of the first year of the reign of his said Majesty King George the First, and by the production of the assessments that the said manors, lands, tenements, rents, hereditaments, or estates are charged with or assessed to the same sums as they were charged with or assessed to previous to or in the said thirty-first year of the reign of his late Majesty King George the Third; and, if the said commissioners shall be satisfied of the truth thereof, they the said commissioners, or any two or more of them, are hereby required and empowered to certify in writing under their hands to the Treasury the names of such owner or occupier, and the amount of the overcharge on such owner or occupier; and the certificate of the said commissioners, attested by their clerk, shall be transmitted to the commissioners for the affairs of taxes, and shall be in the following form:

'We, the undersigned, being the commissioners of land tax for the of , 'in the hundred of , in the county of , do hereby certify, that we 'have heard the complaint of touching the assessment of the complainant's 'estate to double land tax in the said , and that the said assess-'ment, a true copy whereof is hereunto annexed, doth exceed by the sum of 'the just proportion which would have been charged on the said estate in case the 'said estate had not been the property of a person who refused to take the oaths required 'by an Act passed in the fourth year of the reign of their Majesties King William and 'Queen Mary, intituled "An Act for granting to their Majesties an aid of four shillings '" in the pound, for one year, for carrying on a vigorous war with France." [Here 'add a true copy of the assessment.]'

And the Treasury, or the commissioners for the affairs of taxes under their authority, are hereby empowered to inquire and inform themselves of the truth of the said certificate; and in all cases where they shall be satisfied thereof the Treasury, or with their consent the commissioners for the affairs of taxes, or any two or more of them, are hereby required and authorized, by warrant under the hands of any two of the last-mentioned commissioners, to empower the commissioners of the district to which such certificate shall relate to discharge or cause to be discharged such sum or sums of money so certified as aforesaid, or such part thereof as shall appear to be double land tax, from all future assessments; and the said sum or sums of money shall and may be then discharged upon the duplicates to be returned for the said county, district, or division respectively, and shall be allowed upon the accounts of the receivers general for the same, and the inhabitants of such county, district, or division shall stand acquitted, as against his Majesty, for ever, touching the charge of payment of such sum or sums of money so discharged by this Act in manner aforesaid: Provided always, and nothing herein contained shall extend the relief hereby granted in respect of double land tax now charged on any manors, messuages, lands, tenements, or hereditaments purchased by any person or persons for a valuable consideration subject to such double land tax as a charge and incumbrance on such estate or any part thereof, nor shall any person or persons claiming under such a purchase title be entitled so to claim the benefit of this Act; and no discharge of the double land tax from any assessment for any current year shall be granted, unless such certificate as aforesaid shall be transmitted to the commissioners for the affairs of taxes on or before the tenth day of October in such year.

2. Appeal against refusal to discharge the Double Tax, &c.—Provided nevertheless, that if the said commissioners of land tax, or any two or more of them, shall refuse to hear such complaint, or having heard it shall decide against the fair and reasonable construction of the evidence produced in support thereof, or if the party making application for relief under any certificate as aforesaid shall be dissatisfied with the decision of the Treasury, that then and in either of such cases it shall be lawful for the party or parties aggrieved to appeal to his Majesty's Court of Exchequer touching

the matter of such grievance, having first given ten days notice at least of his, her, or their intention so to do to the said commissioners of the district to which such certificate shall relate, or to the commissioners for the affairs of taxes, or their solicitor, in any case where the intended application to the court shall relate to the determination of the Treasury.

3. The Single Rate in cases of relief from Double Tax shall remain subject to variation by Equal Pound Rate with the rest of the Lands in the Parish, &c.—Nothing herein contained shall be construed to make permanent or perpetual the single land tax remaining on any lands or hereditaments to be discharged from double land tax under the provisions of this Act; but every such single tax shall remain subject to variation by equal pound rate, with the rest of the lands in each parish, township, or place in which the same shall be situate, for raising the proportions of land tax charged thereon by the rules, provisions, and directions of the several Acts in force for assessing and raising the land tax.

CHAPTER XXXII.

The Game Act, 1831 (*Short Titles Act*, 1896).

An Act to amend the Laws in England relative to Game.[1]

[5th October 1831.]

[1] *All the clauses and provisions of this Act and of* 2 *&* 3 *Vict. c.* 35, *relating to the granting of licences by justices to deal in game, and to the holding of special sessions for the purpose of granting such licences, and also all the clauses, provisions, and penalties contained in the said Acts or either of them relating to dealers in game and to the selling of game, either by or to such dealers or others, are extended to the whole of the United Kingdom,* 23 *&* 24 *Vict. c.* 90, *s.* 13.

[*Preamble rep.* 51 *&* 52 *Vict. c.* 57 (*S.L.R.*).]

[*S.* **1** *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).]

2. Definition of "Game" under this Act—"Lord of Manor," &c. to include Lady.—The word "game" shall for all the purposes of this Act be deemed to include hares, pheasants, partridges, grouse, heath or moor game, black game, and bustards; and the words "lord of a manor, lordship, or royalty, or reputed manor, lordship, or "royalty," shall throughout this Act be deemed to include a lady of the same respectively.

[*S.* **3** *applicable to England exclusively*].

4. Penalty on Dealers in Game buying, selling or possessing Birds of Game after 10 days after expiration of Season for killing, and on other persons buying or selling Birds after 10 days, or possessing them, except for breeding, after 40 days.—If any person licensed to deal in game by virtue of this Act as herein-after mentioned shall buy or sell, or knowingly have in his house, shop, stall, possession, or control, any bird of game after the expiration of ten days (one inclusive and the other exclusive) from the respective days in each year on which it shall become unlawful to kill or take such birds of game respectively as aforesaid; or if any person, not being licensed to deal in game by virtue of this Act as herein-after mentioned, shall buy or sell any bird of game after the expiration of ten days (one inclusive and the other exclusive) from the respective days in each year on which it shall become unlawful to kill or take such birds of game respectively as aforesaid,or shall knowingly have in his house, possession, or control any bird of game (except birds of game kept in a mew or breeding place) after the expiration of forty days (one inclusive and the other exclusive) from the respective days in each year on which it shall become unlawful to kill or take such birds of game respectively as aforesaid; every such person shall, on conviction of any such offence before two justices of the peace, forfeit and pay for every head of game so bought or sold, or found in his house, shop, possession, or control, such sum of money, not exceeding one pound, as to the convicting justices shall seem meet, together with the costs of the conviction.

[*Ss.* **5–16** *are applicable to England exclusively.*]

17. Persons holding Certificates may sell Game to Licensed Dealers—Gamekeepers not to sell except on account and with authority of Master.—Every person who shall have obtained an annual game certificate shall have power to sell game to any person licensed to deal in game, according to the provisions herein-after mentioned: Provided always, that no game certificate on which a less duty than three pounds thirteen shillings and sixpence is chargeable under the Acts relating to game certificates shall authorize any gamekeeper to sell any game, except on the account and with the written authority of the master whose gamekeeper he is; but that any such gamekeeper selling any game not on the account and with the written authority of such master may be proceeded against under this Act in the same manner, to all intents and purposes, as if he had no game certificate whatsoever.

18. Justices to hold a special Session yearly for granting Licences to persons to deal in Game—Dealers in Game to put up a Board.—The justices of the peace of every county, riding, division, liberty, franchise, city, or town shall hold a special session in the division or district for which they usually act, and in every year in the month of July, for the purpose of granting licences to deal in game, of the holding of which session seven days notice shall be given to each of the justices acting for such division or district; and the majority of the justices assembled at such session, or at some adjournment thereof, not being less than two, are hereby authorized (if they shall think fit) to grant under their hands to any person being a householder or keeper of a shop or stall within such division or district, and not being an innkeeper or victualler, or licensed to sell beer by retail, nor being the owner, guard, or driver of any mail coach or other vehicle employed in the conveyance of the mails of letters, or of any stage coach, stage waggon, van, or other public conveyance, nor being a carrier or higgler, nor being in the employment of any of the above-mentioned persons, a licence according to the form in the schedule (A.) annexed to this Act, empowering the person to whom such licence shall be so granted to buy game at any place from any person who may lawfully sell game by virtue of this Act, and also to sell the same at one house, shop, or stall only, kept by him; provided that every person, while so licensed to deal in game as aforesaid, shall affix to some part of the outside of the front of his house, shop, or stall, and shall there keep, a board having thereon in clear and legible characters his christian name and surname, together with the following words, (that is to say,) "licensed to deal in game"; and every such licence granted in any succeeding year shall continue in force for the period of one year next after the granting thereof.

[*Ss.* **19, 20** *rep.* 23 *&* 24 *Vict. c.* 90, *s.* 1.]

21. Proviso as to Licences in case of Partnership.—Provided always, that persons being in partnership, and carrying on their business at one house, shop, or stall only, shall not be obliged by virtue of this Act to take out more than one licence in any one year to authorize them to deal in game at such house, shop, or stall.

22. Licences to become void on any Conviction under this Act.—If any person licensed by virtue of this Act to deal in game shall during the period of such licence be convicted of any offence whatever against this Act, such licence shall thereupon become null and void.

23. Penalty for killing or taking Game without a Certificate—Penalty to be cumulative.—If any person shall kill or take any game, or use any dog, gun, net, or other engine or instrument for the purpose of searching for or killing or taking game, such person not being authorized so to do for want of a game certificate, he shall, on conviction thereof before two justices of the peace, forfeit and pay for every such offence such sum of money, not exceeding five pounds, as to the said justices shall seem meet, together with the costs of the conviction: Provided always, that no person so convicted shall by reason thereof be exempted from any penalty or liability under any statute or statutes relating to game certificates, but that the penalty imposed by this Act shall be deemed to be a cumulative penalty.

24. Penalty for taking or destroying the Eggs of Game, Wild Fowl, &c., or having Eggs so taken in possession.—If any person not having the right of killing the game upon any land, nor having permission from the person having such right, shall wilfully take out of the nest or destroy in the nest upon such land the eggs of any bird of game, or of any swan, wild duck, teal, or widgeon, or shall knowingly have in his house, shop, possession, or control, any such eggs so taken, every such person shall, on

conviction thereof before two justices of the peace, forfeit and pay for every egg so taken or destroyed, or so found in his house, shop, possession, or control, such sum of money, not exceeding five shillings, as to the said justices shall seem meet, together with the costs of the conviction.

25. Penalty on persons not having Game Certificates selling Game, and on persons having Certificates selling to persons not licensed to deal in Game.—If any person, not having obtained a game certificate, (except such person be licensed to deal in game according to this Act,) shall sell or offer for sale any game to any person whatsoever, or if any person authorized to sell game under this Act by virtue of a game certificate shall sell or offer for sale any game to any person whatsoever, except a person licensed to deal in game according to this Act, every such offender shall, on conviction of any such offence before two justices of the peace, forfeit and pay for every head of game so sold or offered for sale such sum of money, not exceeding two pounds, as to the said justices shall seem meet, together with the costs of the conviction.

26. Saving as to Innkeepers.—Provided always, that it shall be lawful for any innkeeper or tavernkeeper, without any such licence for dealing in game as aforesaid, to sell game for consumption in his own house, such game having been procured from some person licensed to deal in game by virtue of this Act, and not otherwise.

27. Penalty on unlicensed persons buying Game except from licensed Dealers.—If any person, not being licensed to deal in game according to this Act, shall buy any game from any person whatsoever, except from a person licensed to deal in game according to this Act, or bonâ fide from a person affixing to the outside of the front of his house, shop, or stall a board purporting to be the board of a person licensed to deal in game, every such offender shall, on conviction thereof before two justices of the peace, forfeit and pay for every head of game so bought such sum of money, not exceeding five pounds, as to the said justices shall seem meet, together with the costs of the conviction.

28. Penalty on licensed Dealers buying Game from persons not authorized to sell, or otherwise offending; and on unlicensed persons feigning to be licensed.—If any person, being licensed to deal in game according to this Act, shall buy or obtain any game from any person not authorized to sell game for want of a game certificate, or for want of a licence to deal in game; or if any person, being licensed to deal in game according to this Act, shall sell or offer for sale any game at his house, shop, or stall, without such board as aforesaid being affixed to some part of the outside of the front of such house, shop, or stall at the time of such selling or offering for sale, or shall affix or cause to be affixed such board to more than one house, shop, or stall, or shall sell any game at any place other than his house, shop, or stall where such board shall have been affixed; or if any person, not being licensed to deal in game according to this Act, shall assume or pretend, by affixing such board as aforesaid, or by exhibiting any certificate, or by any other device or pretence, to be a person licensed to deal in game; every such offender, being convicted thereof before two justices of the peace, shall forfeit and pay such sum of money, not exceeding ten pounds, as to the said justices shall seem meet, together with the costs of the conviction.

29. Servants of Licensed Dealer may buy and sell Game—One Licensed Dealer may sell on account of another.—Provided always, that the buying and selling of game by any person or persons employed on the behalf of any licensed dealer in game, and acting in the usual course of his employment, and upon the premises where such dealing is carried on, shall be deemed to be a lawful buying and selling in every case, where the same would have been lawful if transacted by such licensed dealer himself: Provided also, that nothing herein contained shall prevent any licensed dealer in game from selling any game which shall have been sent to him to be sold on account of any other licensed dealer in game.

[*Ss.* **30–36** *are applicable to England exclusively.*]

37. Application of Penalties for Offences against this Act.—Every penalty and forfeiture for any offence against this Act (the application of which has not been already provided for) shall be paid to some one of the overseers of the poor, or to some other officer (as the convicting justice or justices may direct) of the parish, township, or place in which the offence shall have been committed, to be by such overseer or officer paid over to the use of the general rate of the county, riding, or division in which such parish,

township, or place shall be situate, whether the same shall or shall not constitute a such general rate; . . . . . .

S. 37 *in part rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).

38. TIME FOR PAYMENT OF PENALTIES, AND TERMS OF IMPRISONMENT IN CASE OF NON-PAYMENT.—The justice or justices of the peace by whom any person shall be summarily convicted and adjudged to pay any sum of money for any offence against this Act, together with costs, may adjudge that such person shall pay the same either immediately or within such period as the said justice or justices shall think fit, and that in default of payment at the time appointed such person shall be imprisoned in the common gaol or house of correction (with or without hard labour, as to the justice or justices shall seem meet, for any term not exceeding two calendar months where the amount to be paid, exclusive of costs, shall not amount to five pounds. . . .

S. 38 *in part rep.* 54 *&* 55 *Vict. c.* 67 (*S.L.R.*).

[*Ss.* **39, 40** *rep.* 54 *&* 55 *Vict. c.* 67 (*S.L.R.*).]

41. PROSECUTIONS TO BE COMMENCED WITHIN THREE MONTHS.—The prosecution for every offence punishable upon summary conviction by virtue of this Act shall be commenced within three calendar months after the commission of the offence. . . . . .

S. 41 *in part rep.* 54 *&* 55 *Vict. c.* 67 (*S.L.R.*).

42. PROSECUTOR NOT REQUIRED TO NEGATIVE POSSESSION OF CERTIFICATE, &C. BY EVIDENCE; BUT POSSESSION MUST BE PROVED.—It shall not be necessary in any proceeding against any person under this Act to negative by evidence any certificate, license, consent, authority, or other matter of exception or defence; but the party seeking to avail himself of any such certificate, license, consent, authority, or other matter of exception or defence, shall be bound to prove the same.

[*S.* **43** *rep.* 54 *&* 55 *Vict. c.* 67 (*S.L.R.*).]

44. APPEAL TO QUARTER SESSIONS.—Any person who shall think himself aggrieved by any summary conviction in pursuance of this Act may appeal to the justices at the next general or quarter sessions of the peace . . . . . .

S. 44 *in part rep.* 54 *&* 55 *Vict. c.* 67 (*S.L.R.*).

45. CONVICTIONS NOT TO BE QUASHED FOR WANT OF FORM OR REMOVED BY CERTIORARI, &C.—No summary conviction in pursuance of this Act, or adjudication made on appeal therefrom, shall be quashed for want of form, or be removed by certiorari or otherwise into any of his Majesty's superior courts of record . . . . . .

S. 45 *in part rep.* 54 *&* 55 *Vict. c.* 67 (*S.L.R.*).

46. THIS ACT NOT TO PRECLUDE ACTIONS FOR TRESPASS, BUT OTHER PROCEEDINGS NOT TO BE TAKEN FOR THE SAME TRESPASS.—Provided always, that nothing in this Act contained shall prevent any person from proceeding by way of civil action to recover damages in respect of any trespass upon his land, whether committed in pursuit of game or otherwise, save and except that where any proceedings shall have been instituted under the provisions of this Act against any person for or in respect of any trespass no action at law shall be maintainable for the same trespass by any person at whose instance or with whose concurrence or assent such proceedings shall have been instituted, but that such proceedings shall in such case be a bar to any such action, and may be given in evidence under the general issue.

[*S.* **47** *rep.* 56 *&* 57 *Vict. c.* 61.]

48. EXTENT OF ACT.—Nothing in this Act contained shall extend to Scotland or Ireland.

SCHEDULES.

SCHEDULE (A.)

FORM OF LICENCE.

At a special session of the justices of the peace of the county of [illegible] riding, &c., as the case may be], acting for the division of [or otherwise, as the case

may be] in the said county, holden at in the said on the day of in the year , We, , being justices acting for the said assembled at the said special session, do hereby authorize and empower A.B. of [here insert the name, description, and place of residence, and if more than one in partnership, say, C.D. of, &c. and E.F. of, &c. being partners,] being a householder [or householders], [or keeper (or keepers) of a shop or stall, as the case may be], to buy game from any person authorized to sell game by virtue of an Act passed in the second year of the reign of King William the Fourth, intituled "An Act "to amend the laws in England relative to game"; and we do also authorize and empower the said A.B. [or C.D. and E.F. being partners] to sell at his [or their] house [shop or stall] any game so bought, provided that the said A.B. [or C.D. and E.F. being partners] shall affix to some part of the outside of the front of his [or their] house [shop or stall], and shall there keep, a board having thereon in clear and legible characters his christian name and surname, [or their christian names and surnames,] together with the following words, "licence to deal in game."

This licence will expire on

(Signed) Justice of the peace.
Justice of the peace.

[*Sched. B. rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).]

CHAPTER XXXVII.

THE TRUCK ACT, 1831 (*Short Titles Act*, 1896).

AN ACT to prohibit the Payment, in certain Trades, of Wages in Goods, or otherwise than in the current Coin of the Realm. [15th October 1831.]

[*Preamble.*]

1. IN CONTRACTS FOR THE HIRING OF ARTIFICERS, WAGES SHALL BE MADE PAYABLE IN CURRENT COIN.—In all contracts hereafter to be made for the hiring of any artificer, . . . or for the performance by any artificer of any labour . . . , the wages of such artificer shall be made payable in the current coin of this realm only, and not otherwise; and if in any such contract the whole or any part of such wages shall be made payable in any manner other than in the current coin aforesaid, such contract shall be and is hereby declared illegal, null, and void.

S. 1 *in part rep.* 54 *&* 55 *Vict. c.* 67 (*S.L.R.*).

2. AND NO STIPULATIONS SHALL BE INSERTED AS TO THE MANNER IN WHICH THE WAGES SHALL BE EXPENDED.—If in any contract hereafter to be made between any artificer . . . , and his employer, any provision shall be made directly or indirectly respecting the place where, or the manner in which, or the person or persons with whom, the whole or any part of the wages due or to become due to any such artificer shall be laid out or expended, such contract shall be and is hereby declared illegal, null, and void.

S. 2 *in part rep.* 54 *&* 55 *Vict. c.* 67 (*S.L.R.*).

3. ALL WAGES SHALL BE PAID TO THE ARTIFICER IN COIN—PAYMENT IN GOODS DECLARED ILLEGAL.—The entire amount of the wages earned by or payable to any artificer . . . , in respect of any labour by him done . . . , shall be actually paid to such artificer in the current coin of this realm, and not otherwise; and every payment made to any such artificer by his employer, of or in respect of any such wages, by the delivering to him of goods, or otherwise than in the current coin aforesaid, except as herein-after mentioned, shall be and is hereby declared illegal, null, and void.

S. 3 *in part rep.* 54 *&* 55 *Vict. c.* 67 (*S.L.R.*).

4. ARTIFICERS MAY RECOVER WAGES, IF NOT PAID IN THE CURRENT COIN.—Every artificer . . . shall be entitled to recover from his employer . . . , in the manner by law provided for the recovery of servants wages, or by any other lawful ways and means, the whole or so much of the wages earned by such artificer . . . as shall

not have been actually paid to him by such his employer in the current coin of this realm.

S. 4 *in part rep.* 54 & 55 *Vict. c.* 67 (*S.L.R.*).

5. In an action brought for Wages no set-off shall be allowed for Goods supplied by the Employer, or by any Shop in which the Employer is interested.—In any action, suit, or other proceeding to be hereafter brought or commenced by any artificer, against his employer, for the recovery of any sum of money due to any such artificer as the wages of his labour . . . , the defendant shall not be allowed to make any set-off, nor to claim any reduction of the plaintiff's demand, by reason or in respect of any goods, wares, or merchandise had or received by the plaintiff as or on account of his wages or in reward for his labour, or by reason or in respect of any goods, wares, or merchandise sold, delivered, or supplied to such artificer at any shop or warehouse kept by or belonging to such employer, or in the profits of which such employer shall have any share or interest.

S. 5 *in part rep.* 54 & 55 *Vict. c.* 67 (*S.L.R.*).

6. No Employer shall have any action against Artificer for Goods supplied to him on account of his Wages by the Employer, or by any Shop in which he is interested.—No employer of any artificer . . . shall have or be entitled to maintain any suit or action in any court of law or equity against any such artificer, for or in respect of any goods, wares, or merchandise, sold, delivered, or supplied to any such artificer by any such employer, whilst in his employment, as or on account of his wages or reward for his labour, or for or in respect of any goods, wares, or merchandise sold, delivered, or supplied to such artificer at any shop or warehouse kept by or belonging to such employer, or in the profits of which such employer shall have any share or interest.

S. 6 *in part rep.* 54 & 55 *Vict. c.* 67 (*S.L.R.*).

7. If any Artificer or his Wife or Children become chargeable to the Parish, the Overseers may recover any Wages earned by him within the three preceding months, and not paid in Cash.—If any artificer, or his wife or widow, or if any child of any such artificer, not being of the full age of twenty-one years, shall become chargeable to any parish or place, and if within the space of three calendar months next before the time when any such charge shall be incurred such artificer shall have earned or have become entitled to receive any wages for any labour by him done . . . , which wages shall not have been paid to such artificer in the current coin of this realm, it shall be lawful for the overseers or overseer of the poor in such parish or place to recover from the employer of such artificer in whose service such labour was done the full amount of wages so unpaid, and to proceed for the recovery thereof by all such ways and means as such artificer himself might have proceeded for that purpose; and the amount of the wages which may be so recovered shall be applied in reimbursing such parish or place all costs and charges incurred in respect of the person or persons to become chargeable, and the surplus shall be applied and paid over to such person or persons.

S. 7 *in part rep.* 54 & 55 *Vict. c.* 67 (*S.L.R.*).

8. This Act not to invalidate the payment of Wages in Bank Notes, or, with consent of Artificer, in Drafts payable to Bearer on demand.—Provided always, that nothing herein contained shall be construed to prevent or to render invalid any contract for the payment, or any actual payment, to any artificer, of the whole or any part of his wages, either in the notes of the Bank of England, or in the notes of any person or persons carrying on the business of a banker, and duly licensed to issue such notes in pursuance of the laws relating to his Majesty's revenue of stamps, or in drafts or orders for the payment of money to the bearer on demand, drawn upon any person or persons carrying on the business of a banker, being duly licensed as aforesaid, within fifteen miles of the place where such drafts or orders shall be so paid, if such artificer shall be freely consenting to receive such drafts or orders as aforesaid, but all payments so made with such consent as aforesaid, in any such notes, drafts, or orders as aforesaid, shall for the purposes of this Act be as valid and effectual as if such payments had been made in the current coin of the realm.

9. Penalties on Employers entering into Contracts or making Payments

HEREBY DECLARED ILLEGAL.—Any employer of any artificer . . . , who shall, by himself or by the agency of any other person or persons, directly or indirectly enter into any contract or make any payment hereby declared illegal, shall for the first offence forfeit a sum not exceeding ten pounds . . . and for the second offence any sum not exceeding twenty pounds nor less than ten pounds, and in case of a third offence any such employer shall be and be deemed guilty of a misdemeanor, and, being thereof convicted, shall be punished by fine only, at the discretion of the court, so that the fines shall not in any case exceed the sum of one hundred pounds.

S. 9 *in part rep.* 54 *&* 55 *Vict. c.* 67 (*S.L.R.*).

10. PROVISO AS TO INTERVAL OF TIME BETWEEN FIRST AND SECOND OFFENCE, &C.— . . . Provided always, that no person shall be punished as for a second offence under this Act unless ten days at the least shall have intervened between the conviction of such person for the first and the conviction by such person of the second offence, but each separate offence committed by any such person before the expiration of the said term of ten days shall be punishable by a separate penalty, as though the same were a first offence; and that no person shall be punished as for a third offence under this Act, unless ten days at the least shall have intervened between the conviction of such person for the second and the conviction by such person of the third offence, but each separate offence committed by any such person before the expiration of the said term of ten days shall be punishable by a separate penalty, as though the same were a second offence; and that the fourth or any subsequent offence which may be committed by any such person against this Act shall be inquired of, tried, and punished, in the manner hereinbefore provided in respect of any third offence; and that if the person or persons preferring any such information shall not be able or shall not see fit to produce evidence of any such previous conviction or convictions as aforesaid, any such offender as aforesaid shall be punished for each separate offence by him committed against the provisions of this Act by an equal number of distinct and separate penalties, as though each of such offences were a first or a second offence, as the case may be; and that no person shall be proceeded against or punished as for a second or as for a third offence at the distance of more than two years from the commission of the next preceding offence.

S. 10 *in part rep.* 50 *&* 51 *Vict. c.* 46, *s.* 17.

[*Ss.* **11, 12** *rep.* 50 *&* 51 *Vict. c.* 46, *s.* 17.]

13. A PARTNER NOT TO BE LIABLE IN PERSON FOR THE OFFENCE OF HIS COPARTNER, BUT THE PARTNERSHIP PROPERTY TO BE LIABLE.—No person shall be liable to be convicted of any offence against this Act committed by his or her copartner in trade, and without his or her knowledge, privity, or consent; but it shall be lawful, when any penalty, or any sum for wages, or any other sum, is ordered to be paid under the authority of this Act, and the person or persons ordered to pay the same shall neglect or refuse to do so, to levy the same by distress and sale of any goods belonging to any copartnership concern or business in the carrying on of which such charges may have become due or such offence may have been committed; and in all proceedings under this Act to recover any sum due for wages it shall be lawful in all cases of copartnership for the justices, at the hearing of any complaint for the nonpayment thereof, to make an order upon any one or more copartners for the payment of the sum appearing to be due; and in such case the service of a copy of any summons or other process, or of any order, upon one or more of such copartners shall be deemed to be a sufficient service upon all.

14. HOW SUMMONSES ARE TO BE SERVED.—In all cases it shall be deemed and taken to be sufficient service of any summons to be issued against any offender or offenders by any justice or justices of the peace under the authority of this Act, if a duplicate or true copy of the same be left at or upon the place used or occupied by such offender or offenders for carrying on his, her, or their trade or business, or at the place of residence of any such offender or offenders, being at or upon any such place as aforesaid, the same being directed to such offender or offenders by his, her, or their right or assumed name or names.

[*Ss.* **15, 16** *rep.* 50 *&* 51 *Vict. c.* 46, *s.* 17.]

17. CONVICTIONS, &C. NOT TO BE QUASHED FOR WANT OF FORM OR BE REMOVED BY CERTIORARI.—No conviction, order, or adjudication made by any justices of the peace

under the provisions of this Act shall be quashed for want of form, nor be removed by certiorari or otherwise into any of his Majesty's superior courts of record; . . . . .

S. 17 *in part rep.* 54 & 55 *Vict. c.* 67 (*S.L.R.*).

[*Ss.* **18, 19** *rep.* 50 & 51 *Vict. c.* 46, *s.* 17.]

20. SAVING AS TO DOMESTICS.—Nothing herein contained shall extend to any domestic servant . . . . . .

S. 20 *in part rep.* 50 & 51 *Vict. c.* 46, *s.* 17.

[*Ss.* **21, 22** *rep.* 50 & 51 *Vict. c.* 46, *s.* 17.]

23. PARTICULAR EXCEPTIONS TO THE GENERALITY OF THE LAW.—Nothing herein contained shall extend or be construed to extend to prevent any employer of any artificer, or agent of any such employer, from supplying or contracting to supply to any such artificer any medicine or medical attendance, or any fuel, or any materials, tools, or implements to be by such artificer employed in his trade or occupation, if such artificers be employed in mining, or any hay, corn, or other provender to be consumed by any horse or other beast of burden employed by any such artificer in his trade and occupation; nor from demising to any artificer, . . . the whole or any part of any tenement at any rent to be thereon reserved; nor from supplying or contracting to supply to any such artificer any victuals dressed or prepared under the roof of any such employer, and there consumed by such artificer; nor from making or contracting to make any stoppage or deduction from the wages of any such artificer for or in respect of any such rent, or for or in respect of any such medicine or medical attendance, or for or in respect of such fuel, materials, tools, implements, hay, corn, or provender, or of any such victuals, dressed and prepared under the roof of any such employer, or for or in respect of any money advanced to such artificer for any such purpose as aforesaid: Provided always, that such stoppage or deduction shall not exceed the real and true value of such fuel, materials, tools, implements, hay, corn, and provender, and shall not be in any case made from the wages of such artificer, unless the agreement or contract for such stoppage or deduction shall be in writing, and signed by such artificer.

S. 23 *in part rep.* 54 & 55 *Vict. c.* 67 (*S.L.R.*).

24. EMPLOYERS MAY ADVANCE MONEY TO ARTIFICERS FOR CERTAIN PURPOSES.—Nothing herein contained shall extend or be construed to extend to prevent any such employer from advancing to any such artificer any money to be by him contributed to any friendly society or bank for savings duly established according to law, nor from advancing to any such artificer any money for his relief in sickness, or for the education of any child or children of such artificer, nor from deducting or contracting to deduct any sum or sums of money from the wages of such artificers for the education of any such child or children of such artificer, ...

S. 24 *in part rep.* 50 & 51 *Vict. c.* 46, *s.* 17.

25. DEFINITION OF TERMS.—In the meaning and for the purposes of this Act . . . all masters, bailiffs, foremen, managers, clerks, and other persons, engaged in the hiring, employment, or superintendence of the labour of any such artificers, shall be and be deemed to be "employers"; and within the meaning and for the purposes of this Act any money or other thing had or contracted to be paid, delivered, or given as a recompense, reward, or remuneration for any labour done or to be done, whether within a certain time or to a certain amount, or for a time or an amount uncertain, shall be deemed and taken to be the "wages" of such labour; and within the meaning and for the purposes aforesaid any agreement, understanding, device, contrivance, collusion, or arrangement whatsoever on the subject of wages, whether written or oral, whether direct or indirect, to which the employer and artificer are parties or are assenting, or by which they are mutually bound to each other, or whereby either of them shall have endeavoured to impose an obligation on the other of them, shall be and be deemed a "contract."

S. 25 *in part rep.* 50 & 51 *Vict. c.* 46, *s.* 17.

[*S.* **26** *rep.* 51 & 52 *Vict. c.* 57 (*S.L.R.*).]

27. To extend over Great Britain. The provisions of this Act shall extend over the whole of that part of the United Kingdom of Great Britain and Ireland called Great Britain.

[*Sched. rep.* 50 & 51 *Vict. c.* 46, *s.* 17.]

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2 & 3 WILLIAM 4, 1831-32.

CHAPTER I.

The Crown Lands Act, 1832 (*Short Titles Act*, 1896).

An Act for uniting the Office of the Surveyor General of His Majesty's Works and Public Buildings with the Office of the Commissioners of Woods; and for other Purposes relating to the Land Revenues. [13th February 1832.]

[*Preamble recites* 10 *Geo.* 4, *c.* 50 (*Woods, Forests, and Land Revenues*), 54 *Geo.* 3, *c.* 157 (*Works and Public Buildings*), *and* 39 *Geo.* 3, *c.* 83 (*Audit of Land Revenue*).]

1. Appointment of Commissioners of his Majesty's Woods, Forests, Land Revenues, Works, and Buildings, in place of Commissioners of Woods, and Surveyor General of Works and Buildings.—It shall be lawful for his Majesty, from time to time, by letters patent under the great seal, to appoint, in the place of the commissioners of woods, and of the surveyor general of his Majesty's works and public buildings, any persons, not exceeding three in number, to be commissioners for performing the duties and exercising the powers now performed and exercisable by the commissioners of woods, and the duties and powers now performed and exercisable by the surveyor general of his Majesty's works and public buildings; and the persons so first appointed, and their successors, shall be called "The Commissioners of His Majesty's "Woods, Forests, Land Revenues, Works, and Buildings"; and the duties heretofore performed, and the powers heretofore exercised or exercisable, and the hereditaments, properties, rights, exemptions, and privileges whatsoever vested in or enjoyed by the commissioners of woods, and the duties heretofore performed and the powers heretofore exercised or exercisable and the exemptions and privileges enjoyed by the said surveyor general of his Majesty's works and public buildings shall, from and after such appointment, be performed and exercised and enjoyed by and vested in the commissioners of his Majesty's woods, forests, and land revenues, works and buildings, and their successors;

. . . . . .

S. 1 *in part rep.* 37 & 38 *Vict. c.* 35 (*S.L.R.*).

[*Ss.* 2–6 *rep.* 37 & 38 *Vict. c.* 35 (*S.L.R.*).]

7. Commissioners to receive Salaries.—[1] It shall be lawful for his Majesty, by the letters patent by which the commissioners of His Majesty's woods, forests, land revenues, works, and buildings, shall be appointed as aforesaid, to grant to the person first-named in such letters patent respectively (who shall be chairman of the commission, and be called the first commissioner), and to the other commissioners respectively, the like salaries as by the said Act of the tenth year of the reign of his late Majesty King George the Fourth his Majesty is empowered to grant to the first commissioner and the other commissioners respectively of woods.

[1] *So much of this Act as relates to the salary of the first commissioner, rep.* 14 & 15 *Vict. c.* 42, *s.* 4.

8. Powers of former Acts vested in the Commissioners.—It shall and may be lawful for the commissioners to be appointed under this Act, and they are hereby authorised, empowered, and required, to exercise and carry into effect all the powers, authorities, clauses, enactments, and provisions contained in the said recited Act of the tenth year of the reign of his late Majesty King George the Fourth, either expressly or by reference to any other Acts, and also to execute and carry into effect all the powers, authorities, enactments, and provisions contained in any other Act or Acts relating to

his Majesty's woods, forests, and land revenues, or to the estates and possessions of the crown, as fully, amply, and effectually as the same could have been carried into effect and exercised by the commissioners of woods, or as if the commissioners to be appointed under this Act had been named in the said Acts instead of the commissioners of woods.

9. ALL LEASES, CONTRACTS, AND AGREEMENTS TO REMAIN IN FORCE IN THE SAME MANNER AS IF THIS ACT HAD NOT PASSED.—All leases and all contracts and agreements for the letting of any part or portion of the estates and possessions of his Majesty, which shall have been made or entered into by the commissioners of woods, and all deeds, contracts, and agreements which shall have been made or entered into by the said commissioners, or by the surveyor general of his Majesty's works and public buildings, shall, from and after the appointment of the commissioners under this Act, continue and be of the same force and effect against and for the benefit of the commissioners to be appointed under this Act, as the same would have been of against and for the benefit of the commissioners of woods, or the surveyor general of his Majesty's works and public buildings, in case this Act had not been passed; and the commissioners to be appointed as aforesaid under this Act shall have the same powers and remedies for recovering the rents and compelling performance of the covenants in such leases respectively contained and on the part of the lessees to be paid and performed, and for enforcing the performance of such deeds, contracts, and agreements, and for recovering any penalties or damages for the nonpayment of such rents or nonperformance of such covenants, deeds, contracts, and agreements, and shall also have the same benefit of all securities given or entered into for the due payment of such rents, and performance of such covenants, contracts, and agreements respectively, and of all other securities given or entered into, to or with the commissioners of woods, or the surveyor general of his Majesty's works and public buildings, as such commissioners or surveyor general respectively could have had in case this Act had not been passed, or as if the commissioners to be appointed under this Act had been parties to or named in such leases, contracts, agreements, and securities, instead of the commissioners of woods, or the surveyor general of his Majesty's works and public buildings, or as if the said securities had been given to the commissioners to be appointed under or by virtue of this Act; and all rents and sums of money which, if this Act had not been passed, would, from and after the appointment of the commissioners under this Act, have been due and payable to the commissioners of woods, or to the surveyor general of his Majesty's works and public buildings, shall be due and payable to and shall be paid to the commissioners to be appointed under this Act; and such commissioners shall have the same benefit of all bonds and securities, and of all other remedies for recovering and obtaining payment of such sums respectively, as the commissioners of woods, or the surveyor general of his Majesty's works and public buildings, might or could have had in case this Act had not been passed; and all debts and sums of money, which, if this Act had not been passed, would from and after the appointment of the commissioners under this Act have been payable by the commissioners of woods, or by the surveyor general of his Majesty's works and public buildings, shall be paid by the commissioners to be appointed under this Act; and the commissioners to be appointed under this Act shall, from and after they shall be appointed commissioners as aforesaid, be bound by every such lease, deed, contract, or agreement as aforesaid in the same manner as if they had been parties thereto or named therein instead of the commissioners of woods, or the surveyor general of his Majesty's works and public buildings.

10. POWERS AND PRIVILEGES OF FIRST COMMISSIONER—TWO COMMISSIONERS MAY ACT IN CERTAIN CASES.—The first commissioner of his Majesty's woods, forests, land revenues, works, and buildings . . . shall have the powers and privileges, and for all purposes whatsoever shall come in the place and be the successor of the first commissioner of woods, as well in relation to all other matters as in relation to his Majesty's woods, forests, and land revenues; and where any thing is, by any Act heretofore passed, required, directed, or permitted to be done by the commissioners of woods, and which if done by two of them would by law be as valid and effectual as if done by all of them, and when any thing is by this Act or shall by any future Act be required, directed or permitted to be done by the commissioners of his Majesty's woods, forests, land revenues, works, and buildings, the same may be done by any two of them, unless express

provision be made to the contrary, and if done by two of them shall be as valid and effectual as if done by all of them.

S. 10 *in part rep.* 37 & 38 *Vict. c.* 35 (*S.L.R.*).

[*Ss.* **11–14** *rep.* 37 & 38 *Vict. c.* 35 (*S.L.R.*). *Ss.* **13** *to end of Act apply to England exclusively.*]

CHAPTER V.

THE COURT OF SESSION ACT, 1832 (*Short Titles Act*, 1896).

AN ACT to provide for carrying on the Business of the Court of Session in Scotland when interrupted by the Death or necessary Absence of any of the Judges thereof. [13th February 1832.]

[*Preamble.*]

1. JUDGES OF THE COURT OF SESSION MAY, IN CASE OF DEATH, ABSENCE, &C. OF ANY LORD ORDINARY, MAKE REGULATIONS FOR CARRYING ON THE BUSINESS OF THE OUTER HOUSE.—It shall be competent to the judges of the Court of Session, or a quorum thereof, in the case of the death, sickness, or other necessary absence of any of the lords ordinary . . . to make such regulations by act of sederunt as may be necessary for carrying on the business of the outer house, . . . by appointing one of the judges of either division of the inner house to officiate in the outer house . . . during such absence of any of the above lords ordinary, ...

S. 1 *in part rep.* 54 & 55 *Vict. c.* 67 (*S.L.R.*).

2. WHEN THE JUDGES OF THE INNER HOUSE ARE REDUCED BELOW A QUORUM, THEY SHALL CALL IN ONE OF THE LORDS ORDINARY TO ASSIST.—In case of death, sickness, declinature, or necessary absence of any of the judges of the inner house of either division, the number of judges in such division shall be reduced to less than a quorum, it shall be in the power of the division so reduced in number, and they are hereby authorized and required, to call in one of the lords ordinary . . . to sit and vote in the inner house until the number of judges in such division be again increased to a quorum.

S. 2 *in part rep.* 54 & 55 *Vict. c.* 6 (*S.L.R.*).

CHAPTER XVI.

THE EXCISE PERMIT ACT, 1832 (*Short Titles Act*, 1896).

AN ACT to consolidate and amend the Laws regulating the granting and issuing of Permits for the Removal of Goods under the Laws of Excise. [24th March 1832.]

[*Preamble.*]

1. ALL EXCISE PERMITS TO BE MADE AND GRANTED ACCORDING TO THE PROVISIONS OF THIS ACT.—All permits to be granted for the removal or conveyance of any commodities, for the removal of which a permit is or shall be required by any Act or Acts now in force or hereafter to be passed relating to the excise, shall be made and granted under the powers and directions of this Act.

2. COMMISSIONERS OF EXCISE TO PROVIDE MOULDS FOR MAKING PAPER TO BE USED FOR, AND PLATES AND TYPES FOR PRINTING PERMITS.—The commissioners of excise shall cause to be provided moulds or frames for the making of paper to be used in Great Britain and Ireland for permits, which paper shall have the words "excise office," with any other letters, figures, marks, or devices which the said commissioners shall direct, visible in the substance of such paper, and shall also cause to be provided plates engraved with such marks, stamps, and devices as to them shall seem meet, and from time to time may alter or vary any such plates, and may also cause to be provided types cast in any particular form for the printing, stamping, and marking the said paper; and all permits given by the respective officers of excise in the United Kingdom for the removal or conveyance of any commodity, for the removal of which a permit is by law required,

shall be printed, stamped, and marked by the said plate or plates or types on paper so made as aforesaid; which said paper shall be made and the said plates engraven and types cast by such person or persons as shall be for that purpose from time to time authorized and appointed by the commissioners of excise under their hands and seals; and as well the said paper as the said plates so engraven and types so cast shall be kept by such officer or officers or other person as shall from time to time be appointed by the said commissioners for keeping the same; and no permit shall be printed, stamped, marked, or written, nor shall any permit be granted, in any part of the United Kingdom, by any officer of excise, but on paper so provided as aforesaid.

3. Unauthorized persons making or having in their possession Moulds with the words "Excise Office," &c., and persons forging or counterfeiting Excise Paper, or Plates or Types, or having the same in their possession, to be deemed guilty of Felony, and be subject to Transportation or Imprisonment.—Every person who shall make, or cause or procure to be made, or shall aid or assist in the making, or shall knowingly have in his, her, or their custody or possession, not being authorized by the said commissioners, and without lawful excuse, the proof whereof shall lie on the person accused, any mould or frame or other instrument having therein the words "excise office," or any other words, figures, marks, or devices peculiar to and appearing in the substance of the paper used by the said commissioners for permits, or with any or part of such words, figures, marks, or devices, or any of them, intended to imitate or pass for the same; and every person, except as before excepted, who shall make, or cause or procure to be made, or aid or assist in the making, any paper in the substance of which the words "excise office," or any other words, figures, marks, or devices peculiar to or appearing in the substance of the paper used by the commissioners of excise for permits, or any part of such words, figures, marks, or devices, or any of them, intended to imitate and pass for the same, shall be visible, and every person, except as before excepted, who shall knowingly have in his, her, or their custody or possession, without lawful excuse, (the proof whereof shall lie on the person accused,) any paper whatever in the substance of which the words "excise office," or any other words, figures, marks, or devices peculiar to and appearing in the substance of paper used by the commissioners of excise for permits, or any part of such words, figures, marks, or devices, or of any of them, intended to imitate and pass for the same, shall be visible; and every person, except as before excepted, who shall, by any art, mystery, or contrivance, cause or procure, or aid or assist in causing or procuring, the words "excise office," or any other words, figures, marks, or devices peculiar to and appearing in the substance of the paper used by the commissioners of excise for permits, or any or part of such words, figures, marks, or devices, or any of them, intended to imitate and pass for the same, to appear visible in the substance of any paper whatever; and every person not authorized or appointed as aforesaid, who shall engrave, cast, cut, or make, or cause or procure to be engraved, cast, cut, or made, or aid or assist in engraving, casting, cutting, or making, any plate, type, or other thing in imitation of or to resemble any plate or type made or used by the direction of the commissioners of excise for the purpose of marking or printing the paper to be used for permits; and every person, except as before excepted, who shall knowingly have in his or her custody or possession, without lawful excuse, proof whereof shall lie on the person accused, any such plate or type; shall for every such offence be adjudged a felon, and shall be transported for the term of seven years, or shall be imprisoned, at the discretion of the court before whom such person shall be tried, for any period not less than two years.

4. Persons forging or counterfeiting Permits, or uttering or using forged or counterfeited Permits, to be deemed guilty of a misdemeanor, and be subject to Transportation or Imprisonment.—Every person who shall counterfeit or forge, or cause or procure to be counterfeited or forged, or assist in counterfeiting or forging, any permit or any part of any permit, or shall counterfeit any impression, stamp or mark, figure or device, provided or appointed or to be provided or appointed by the commissioners of excise to be put on such permit, or shall utter, give, or make use of any counterfeited or forged permit, knowing the same or any part thereof to be counterfeited or forged, or shall utter, give, or make use of any permit with any such counterfeited impression, stamp, or mark, figure or device, knowing the same to be counterfeited; or if any person or persons shall knowingly or willingly accept or receive any counterfeited or forged permit, or any permit with any such counterfeited impression, stamp or

mark, figure or device thereon, knowing the same to be counterfeited; shall for every such offence be adjudged guilty of a misdemeanor, and shall be transported for the term of seven years, or fined and imprisoned, at the discretion of the court.

5. A Request Note to be produced before a Permit is granted.—No permit shall be granted by any officer of excise until a request note or requisition in writing shall have been delivered by or in behalf of the person requiring such permit; and every permit which shall be granted without a request note or requisition being delivered in manner required by this Act shall be actually void, and shall not protect any goods, wares, or merchandize mentioned in such permit.

6. Request Note to contain certain Particulars and be signed—Request Notes not liable to Stamp Duty.—Every request note for any permit shall contain the date thereof, and the name of the place from which and the place to which the commodities therein mentioned are to be carried, and the mode of conveyance by which such commodities are to be removed, and shall likewise contain the real name and surname and place of abode of the person or persons sending such commodities, and of the person to whom they are to be sent, and in case of a company or copartnership, the name of the firm, company, or copartnership, together with such other particulars as the commissioners of excise shall from time to time direct or appoint, or as shall be required by any Act or Acts relating to the commodities in respect of which the permit shall be required; and every such request note shall be signed by the person requiring the permit, or by his or her known clerk or servant; and no permit shall be granted on any request note which shall not be so signed, and contain the several particulars aforesaid: Provided always, that no such request note or requisition shall be liable to any stamp duty thereon.

7. Form, &c. of Permits.—Every permit to be granted for the removal of any commodities shall be made out in conformity with the request note; and every such permit shall be in such form, and shall be marked, stamped, and printed with such stamps, marks, figures, and devices, and shall contain such particulars, as the commissioners of excise shall direct.

8. Permit to limit the time for which it is to be in force—Goods not removed or delivered in time to be forfeited.—Every officer of excise empowered to grant permits shall express and limit in every permit granted by him, as well the time during which such permit shall be in force for removing the commodities for which the permit shall be obtained from and out of the stock of the person taking out such permit, as also the time within which the same commodities shall be delivered and actually received into the stock of the person or persons to whom the same shall be so permitted to be sent; and every permit which shall not be actually used, as directed by this Act, within the time expressed and limited in such permit, shall within the said time be returned and re-delivered by the person who shall have obtained the same to the proper officer of excise; and if any permit shall not be so returned as aforesaid, and upon taking an account, by any officer or officers of excise, of the stock remaining in the hands or custody of the person or persons from or out of whose stock the commodities mentioned in such permit were thereby authorized to be removed, there shall not appear a sufficient decrease to answer the removal of the commodities mentioned in such permit, then the person or persons from or out of whose stock the commodities mentioned in such permit were thereby authorized to be removed shall forfeit and lose the like quantity of commodities so permitted to be removed, and not removed according to such permission, and the same may be seized by any officer of excise; and in case any commodities specified in any permit shall be removed from the stock of the person taking out such permit, and the same shall not, within the time expressed and limited in such permit, be actually delivered and received into the stock of the person or persons to whom the same are mentioned in such permit to be sent, then and in every such case all such commodities so removed as aforesaid shall be deemed to be goods removed or removing without permit, and shall be forfeited and seized accordingly.

9. Goods seized which have been delayed by unavoidable Accident or necessity shall be restored upon Proof given.—Provided always, that in case any goods or commodities shall, by any unavoidable accident or necessity, be delayed, and thereby be prevented from being delivered into the stock or stocks of the persons to whom such goods shall be sent within the time limited and expressed in the permit, that then and in every such case the court or jurisdiction where any information shall be brought for

the condemnation of any such seizure shall, upon proof of such unavoidable accident or necessity, direct the goods or commodities so seized to be restored to the owner or claimer thereof, any thing herein-before contained to the contrary notwithstanding.

10. PENALTY ON SENDING OUT OR DELIVERING OR RECEIVING GOODS WITHOUT PERMIT, £200.—Every person who shall remove, deliver, or send out, or cause or suffer to be removed, delivered, or sent out, from his stock, custody, or possession, any commodities for the removal whereof a permit is or shall be required, without a proper permit accompanying the same, or who having obtained a permit shall not send out therewith the commodities therein described, or return and re-deliver the said permit to the proper officer of excise within the time herein-before required, and every person who shall take or receive or suffer to be taken or received into or shall have in his, her, or their stock, custody, or possession, any commodities for the removal whereof a permit is required, without a proper permit accompanying or having accompanied the same, shall forfeit for every such offence two hundred pounds.

11. ALL GOODS REMOVED, &C. WITHOUT PERMIT TO BE FORFEITED, AND THE PERSON CONVEYING THEM TO FORFEIT £200.—All commodities for the removal whereof a permit is required, which shall be or shall have been delivered, removed, or sent out, or which shall be found removing, carrying, or conveying, or which shall be received, without a proper permit accompanying the same, shall be forfeited, and may be seized by any officer of excise; and every carrier, master of a vessel, boatman, and other person who shall be found or shall knowingly have been employed or engaged in, or shall knowingly aid or assist or have aided or assisted in, delivering, removing, carrying, or conveying any such commodities without a proper permit accompanying the same, shall forfeit two hundred pounds.

12. IF GOODS FOR WHICH A PERMIT IS REQUIRED ARE DELIVERED WITHOUT ONE, THE SELLER SHALL NOT RECOVER THE PRICE BY ACTION; AND IF PURCHASER HAS PAID THE PRICE, HE MAY RECOVER IT WITHIN TWELVE MONTHS.—In any action or suit, at law or in equity, on any bond, bill, note, or other security, contract, agreement, promise, or undertaking, where the whole or any part of the consideration thereof shall be for the value or price of any commodities for the removal of which a permit is or shall be required, and for and with which a proper permit shall not have been given, the defendant in such action or suit may plead and give in evidence that such commodities were delivered without a permit accompanying them; and if the jury shall find that such goods were delivered without a true and lawful permit having been obtained for the removal thereof, they shall find a verdict for the defendant; and if such commodities shall have been sold for ready money, or if the person selling the same shall otherwise have been paid or satisfied for the value or price thereof, it shall be lawful for the person who shall have paid or satisfied such value or price, within twelve calendar months after payment or satisfaction made, to recover back from the seller of such commodities the amount of the value or price of such commodities, to be sued for and recovered by action of debt or on the case in any of his Majesty's courts of record.

13. PENALTY ON FORGING OR COUNTERFEITING REQUEST NOTES, OR FRAUDULENTLY PROCURING OR ALTERING PERMITS, OR MISAPPLYING OR MISUSING THEM, L.500 AND FORFEITURE OF THE GOODS.—Every person who shall forge or counterfeit any request note for a permit, or shall forge or counterfeit or make use of the name of any trader entitled to obtain permits, for the purpose of falsely and fraudulently obtaining a permit, or shall utter or produce any forged, false, or untrue request note to any officer of excise, for the purpose of falsely and fraudulently obtaining a permit; and every person who shall insert in any request note the name of, or shall obtain a permit to, any fictitious person, as the person to whom the goods or commodities mentioned in such request note or permit are to be sent; and every person who shall fraudulently alter, erase, or obliterate any permit, or any part thereof, after the same shall have been granted by the proper officer of excise, or shall knowingly or willingly give an altered, erased, obliterated, false, or untrue permit; and every person who shall knowingly or willingly accept or receive any altered, erased, obliterated, false, or untrue permit with or for any commodities; and every person who, having obtained a permit, shall remove or send or deliver, or cause or procure or suffer to be removed, sent, or delivered, the commodities specified in any such permit to any other person than the person to whom the said permit shall permit the said commodities to be sent, or shall remove or send with such permit any other commodities than the commodities specified and described therein and

thereby permitted to be removed, or any greater or lesser quantity of such commodities; and every person who shall request, obtain, sell, lend, deliver, employ, or make use of any permit, or shall procure or suffer any permit to be requested, obtained, sold, lent, delivered, or employed or made use of, for any other use or purpose whatsoever than to accompany the actual removal and delivery of the commodities as therein expressed, or shall produce, or cause or suffer to be produced, any such permit to any officer of excise as having been received with any commodities other than as aforesaid, or shall in any manner knowingly or willingly use or employ, or cause or suffer to be used or employed, any permit, so as that any account of any stock or of any commodities kept or checked or to be kept or checked by any officer of excise by such permit shall or may be frustrated or evaded; shall for every such offence severally forfeit the sum of five hundred pounds; and all commodities removing or removed with any such permit in any of the cases aforesaid shall be forfeited, and may be seized by any officer of excise.

[*S.* **14** *rep.* 53 *&* 54 *Vict. c.* 21, *s.* 40.]

15. Punishment of Officer delivering out Blank or False Permits, &c.—Every officer of excise who shall deliver out or suffer to be delivered out any paper prepared or provided or appointed by the commissioners of excise to be used for permits in blank, or before such permit shall be filled up and issued agreeable to and in conformity with a request note; and every officer who shall knowingly give or grant any permit to any person not entitled to receive the same, or shall knowingly give or grant any false or untrue permit, or shall make any false or untrue entry in the counterpart of any permit given or granted by him, or shall knowingly or willingly receive or take any goods or commodities into the stock of any person or persons brought in with any false or untrue or fraudulent permit, or shall knowingly or willingly grant any permit for the removal of any goods or commodities out of or from the stock of any person or persons who shall have received or retained such goods or commodities, or any of them, under or by virtue or pretext of any false, untrue, forged, or fraudulent permit, or shall knowingly or willingly give any false credit in the stock of any person or persons beyond the credit to which such stock is justly and truly entitled, so as to enable such person or persons falsely and fraudulently to obtain a permit or permits; or if any such officer shall knowingly or willingly suffer the same to be done directly or indirectly; every officer so offending in any of the cases aforesaid shall be guilty of a misdemeanor, and on conviction shall suffer such punishment by fine and imprisonment, or fine or imprisonment, as the court shall award; and every officer so convicted shall from thenceforth be incapable of holding any office or place in or relating to any of the revenues of the United Kingdom.

16. Regulations for private persons obtaining Permits.—Where any person, not being a trader duly entered and licensed and under the survey of the excise, shall have occasion to remove from any one part of the United Kingdom to any other part thereof any goods or commodities for the removal of which a permit is or shall be by any law or laws of excise required, it shall be lawful for the officer authorized to grant permits in the place from whence such commodities are intended to be removed, on such person, or his, her, or their known servant or servants, declaring, to the satisfaction of the commissioners of excise or of the collector or supervisor of excise of the collection or district in which the place from whence such commodities are intended to be removed is situate, that all the duties for such commodities have, to the best of the knowledge and belief of the person proving the same, been fully paid, and in case such commodities are intended to be sent in and delivered to any other person than the person requiring the permit, then on a further declaration that the said goods or commodities have not been sold or disposed of to such other person, upon a request note sent and delivered to such officer so authorized to grant permits, to give and grant a permit or permits, for the removal of such commodities.

17. Penalty on False Declaration.—If any such declaration made by any person for the purpose of obtaining a permit for the removal of any goods or commodities shall be false or untrue in any particular or respect, the person knowingly making the same shall forfeit one hundred pounds.

18. Goods seized for breach of Excise Laws shall be condemned, notwithstanding a Permit may have been produced, unless proof is made that the Duties have been paid, &c.—Proof of Identity of Goods described in Permit.—If any

commodities for the removal of which a permit is or shall be required shall be seized for any breach or violation of any of the laws of excise, such commodities shall be condemned and adjudged forfeited, notwithstanding that the claimant shall prove that a permit was produced when such commodities were removing and conveying, or that a permit was produced after such commodities were removed and received, unless the claimant shall also prove in such case that the commodities so seized are duty-paid, or the sale of such commodities had by reason of or in consequence of a forfeiture and condemnation thereof, or that the same had been received with a true and lawful permit from the stock of the trader duly authorized to obtain a permit for such goods; and if on the trial of any information, action, suit, or other proceeding at law brought for the recovery of any penalty or the condemnation of any commodities or against any officer of excise for the seizure of any commodities, any question shall arise whether any commodities for the conveyance or protection of which any permit shall be produced or shall be alleged to have been obtained are the identical commodities described and specified in such permit, proof of such commodities being really and bonâ fide the commodities mentioned and specified in such permit shall lie upon the owner or claimer thereof, or the person from whom the same shall have been seized, as such owner or claimer or person shall be party to the suit, either as defendant or plaintiff.

19. Counterpart of Permit with Request Note to be Evidence.—Whenever on the trial of any information, suit, action, or other proceeding at law, it may be necessary to prove the issuing of any permit or the contents thereof, the counterpart of such permit, together with the request note, may in all cases be admitted as evidence and proof that such permit was granted and issued, and of the contents thereof, according to the purport of such counterpart and request note, without producing or requiring the production of the original permit; and it shall not be necessary to prove any order of the commissioners of excise appointing or directing the form of any such permit or of any counterpart thereof respectively.

20. General provisions of Excise Acts as to Permits repealed.— . . . All and every provision in any Act or Acts relating to the excise contained for regulating the general form and issuing of permits for the removal and conveyance of exciseable commodities, for which similar provision is in and by this Act made, shall be and the same is and are hereby repealed.

S. 20 *in part rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).

21. Provisions as to Permits in Acts regulating particular Trades not to be affected.—Provided always, that nothing in this Act shall be construed to alter, repeal, or vary any Act by which a permit is required for the removal or conveyance of any particular goods or commodities, or any enactments, provisions, regulations, or restrictions in any such Act or Acts contained relating to the manufacturers, dealers in or retailers of such goods or commodities, or the survey or keeping the stocks thereof, or to the traders entitled to receive or obtain permits, or the number of permits to be taken out or obtained by such traders, or the quantities of goods or commodities for which and the restrictions and provisions under which permits are to be obtained, or to the delivery of permits to the officers of excise by persons receiving the same, or the credits to which such persons shall be entitled in respect of permits; but all and every such Act and Acts relating to the particular trade or business in and to the particular goods and commodities for which a permit is or shall be required shall, together with all enactments, clauses, penalties, forfeitures, provisions, restrictions, and regulations therein, with all powers and authorities to any officer or officers to examine permits, or stop or examine and seize any goods or commodities for the removal whereof a permit is by any such Act or Acts required, or any persons removing such goods, shall remain in full force and effect.

[*Ss.* **22, 23** *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).]

CHAPTER XL.

THE ADMIRALTY ACT, 1832 (*Short Titles Act*, 1896).

AN ACT to amend the Laws relating to the Business of the Civil Departments of the Navy, and to make other Regulations for more effectually carrying on the Duties of the said Departments. [1st June 1832.]

Whereas his Majesty, by his royal letters patent under the Great Seal bearing date the second day of November one thousand eight hundred and thirty-one, was pleased to constitute and appoint certain persons therein named to be principal officers and commissioners of his Majesty's navy, and by other letters patent under the great seal, bearing date the twenty-fifth day of February one thousand eight hundred and thirty-one, was pleased to constitute and appoint certain other persons therein named commissioners for victualling his Majesty's navy, and for the care of sick and wounded seamen: And whereas it has been deemed expedient that the number of offices in the civil departments of the navy should be reduced, and to that end that the offices or departments of the principal officers and commissioners of his Majesty's navy, and of the commissioners for victualling his Majesty's navy, and for the care of sick and wounded seamen, should be abolished: And whereas various duties of the said commissioners being established and regulated by divers Acts of Parliament, it is requisite that such Acts should in some cases be altered, and new provisions made for the due execution of the said duties:

1. IN CASE HIS MAJESTY SHALL REVOKE THE APPOINTMENTS OF THE COMMISSIONERS OF THE NAVY AND FOR VICTUALLING, &C., THE POWERS AND AUTHORITIES VESTED IN THEM BY ANY STATUTES SHALL BE TRANSFERRED TO THE COMMISSIONERS OF THE ADMIRALTY—WHO SHALL NOT THEREBY BE DISQUALIFIED FROM SITTING IN PARLIAMENT UNDER 6 ANN. C. 43—BUT NOT MORE THAN FIVE COMMISSIONERS SHALL SIT IN THE HOUSE OF COMMONS AT ONCE.—In case his Majesty shall be pleased to cancel and revoke the said letters patent by which the said several persons were respectively constituted and appointed principal officers and commissioners of the navy, and commissioners for victualling his Majesty's navy, and for the care of sick and wounded seamen, as aforesaid, all the interests, titles, authorities, powers, and duties vested in the said respective commissioners by any Act or Acts of Parliament, and every matter relating to them and their respective offices, shall from and after such revocation be and the same are hereby declared to be transferred to the commissioners for executing the office of lord high admiral of the United Kingdom of Great Britain and Ireland for the time being, and shall be vested in and exercised by them in as full and ample a manner, to all intents and purposes, as if they had been named in the said Acts instead of the commissioners of his Majesty's navy, and the commissioners for victualling his Majesty's navy, and for the care of sick and wounded seamen respectively, subject however to the provisions herein-after established: Provided always, that such transfer shall not be deemed to confer on the said commissioners for executing the office of lord high admiral aforesaid any new office within the meaning of an Act passed in the sixth year of the reign of her Majesty Queen Anne, intituled "An Act for the security of her Majesty's person and government, "and of the succession to the Crown of Great Britain in the Protestant line"; nor shall any such commissioner last-mentioned, by taking upon himself, under any new letters patent which his Majesty may think fit to cause to be issued, the duties of the offices so abolished, be disqualified from sitting and voting in Parliament, or thereby vacate the seat in Parliament which any such commissioner may then hold; any thing contained in the said Act of Queen Anne, or in any other Act, or any usage of Parliament, to the contrary notwithstanding; but it is nevertheless hereby declared, that from and after the passing of this Act no greater number than five commissioners of the Admiralty shall be competent at any one time to sit and vote in the Commons House of Parliament.

[*Ss.* **2–4** *rep.* 28 *&* 29 *Vict. c.* 112, *s.* 1.]

5. COMMISSIONERS OF THE ADMIRALTY MAY ADMINISTER OATHS AND ACT AS JUSTICES.—It shall be lawful for the commissioners for executing the office of lord high admiral aforesaid for the time being, or any one or more of them, and they and each of them are and is hereby empowered, to administer an oath or oaths in any cases touching or concerning his Majesty's naval monies, stores, victuals, or provisions, or the accounts

thereof, or in any other matter relating to his Majesty's naval service, and also from time to time, in all places whatever, to execute the office and authority of a justice of the peace in as full and ample a manner as any commissioners of the navy or victualling are by any Act of Parliament now in force, or any justice under any commission is authorized to execute the same; and all keepers of gaols, and all constables and other peace officers, are hereby respectively required from time to time diligently to execute and obey all such warrants as shall be lawfully made, directed, or given to them or any of them by any one or more of the said commissioners for executing the office of lord high admiral aforesaid; and all the laws made or to be made for the ease, safety, and protection of justices of the peace in the execution of their office shall extend to the said last-mentioned commissioners, and to all constables and other peace officers and persons acting under the warrant or authority of any such commissioners, as fully and effectually to all intents and purposes as if they were herein enacted.

6. Two Commissioners of the Admiralty may execute all powers.—[*Recital and repeal of* 3 *Geo.* 4, *c.* 19] It shall be lawful for any two or more commissioners for executing the office of lord high admiral aforesaid, and they are hereby empowered, to exercise and execute all powers, authorities, and duties, and to perform and do all acts, matters, and things appertaining to their office, which by any Act or Acts of Parliament are authorized or required to be executed or done by three or more of them, or by the commissioners of the navy and victualling respectively; and all such authorities, duties, matters, and things executed and performed by two or more of the said commissioners of the Admiralty shall be valid and effectual to all intents and purposes.

7. Style and Title of the Commissioners.—In all deeds, conveyances, leases, contracts, and other instruments touching any estate, property, matter, or thing relating to the naval service, or to any department under the controul of the commissioners for executing the office of lord high admiral aforesaid, or whereto they or any of them shall be parties, it shall be sufficient to describe them generally by the style and title of "The Commissioners for executing the Office of Lord High Admiral of the United "Kingdom of Great Britain and Ireland," without expressing their names; and all such deeds, conveyances, leases, contracts, and other instruments wherein the said commissioners shall be so described, and the execution thereof by any two of them, shall be as valid and effectual to all intents and purposes as if they or any of them had been expressly named therein.

[*Ss.* **8–36** *and Sched. rep.* 28 *&* 29 *Vict. c.* 112, *s.* 1.]

CHAPTER LIII.

The Army Prize Money Act, 1832 (*Short Titles Act*, 1896).

An Act for consolidating and amending the Laws relating to the Payment of Army Prize Money. [23d June 1832.]

[*Preamble.*]

[*S.* **1** *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).]

2. All Captures hereafter made by the Army, &c. shall be disposed of as his Majesty shall direct.—In all captures which shall be made by his Majesty's army, royal artillery, provincial, black, and all other troops in the pay or service of his Majesty, or belonging to his Majesty, but in the pay of the United Company of Merchants trading to the East Indies, or howsoever otherwise paid, of any fortress or possession of his Majesty's enemies, or of any ship or vessel in any road, river, haven, or creek belonging to such fortress or possession, and in all captures, expeditions, or actions from which prize money, bounty money, or grant shall arise, the commanders and other officers and soldiers engaged therein shall have such right and interest as his Majesty shall think fit to order in all the arms, ammunition, stores of war, goods, merchandize, booty, prize, and treasure belonging to the state, or to any public trading company of such enemies, which shall be found in such fortress or possession, or captured in or granted for any such expedition or action, to be divided in such proportions, and according to such general rule of distribution for the army, as shall be

established by his Majesty, or in default thereof in such manner as his Majesty shall under his sign manual be pleased to direct.

3. Deserters shall not be entitled to Prize Money—Their Shares and all Shares not claimed within six years after being paid to the Treasurer of Chelsea Hospital shall be forfeited, unless Deserters be restored or pardoned, or unless good cause be shown for Shares not being claimed.—Provided always, that no officer, non-commissioned officer, or soldier, or other person, who shall be entitled to share in any prize or capture taken from any of his Majesty's enemies, or in any grant on account of services, and who shall desert or unlawfully withdraw from his Majesty's service, shall have any title to or benefit from any part of such prize, capture, or grant which at the time of such desertion shall remain unpaid; but the share or shares of every such officer, non-commissioned officer, or soldier, or other person, so deserting, or such part thereof as at the time of his or their desertion shall remain unpaid, and also the shares of all officers, non-commissioned officers, and soldiers which shall not be legally demanded within six years after the same shall have been paid to the treasurer of Chelsea Hospital as herein-after mentioned, shall be forfeited to the treasurer of Chelsea Hospital and applied in manner herein-after mentioned; unless such officers, non-commissioned officers, or soldiers as shall have deserted shall be restored by his Majesty's proclamation, or otherwise pardoned; and unless, with respect to such shares of officers, non-commissioned officers, and soldiers as shall not be claimed within the time above limited in that behalf, reasonable cause shall be shown to and allowed by the commissioners of the said royal hospital at Chelsea for the time being, or any three or more of them, why such last-mentioned shares were not claimed in due time.

4. Booty shall be collected and Appraisements and Sales made by Agents appointed by the Commanders, &c. by Letters of Attorney.—Penalty on Agents permitting others to share, or on others sharing in the Commission or Emolument in respect of Agency.—In all such captures, expeditions, or actions as aforesaid, the receiving and collecting of booty, and all appraisements and sales of any arms, ammunition, stores of war, goods, merchandize, and treasure which shall be found in any such fortress or possession as aforesaid, and to which the commanders and other officers and soldiers shall be entitled, shall be made by agents appointed by the commanders and other officers entitled thereto; (that is to say,) the commanders-in-chief and field officers acting on the expedition in which such fortress or possession was captured shall appoint an agent; and the other commissioned officers entitled thereto, or the majority of them if more than one, may appoint another agent to act for them; such appointment being made by letter or letters of attorney duly executed for that purpose, copies of which shall be transmitted as herein-after mentioned; and no person or persons, except the person or persons so to be nominated and appointed agent or agents, and who shall have given security as required by this Act, and who shall actually discharge the duties of agent, shall under any pretence receive any part or share of any commission or percentage in respect of such agency, or any benefit out of any such commission or per-centage; and every person so nominated and appointed agent, who shall give to or allow to be taken by any other person, and every person who shall take, accept, or receive, either himself or by any other person in his behalf or for his use or advantage, or for the use or advantage of any part of his family, any part or share of any such commission, or any emolument or benefit thereout, shall for every such offence forfeit and pay the sum of one hundred pounds, and also double the amount or value of what shall have been so given or allowed to be taken, or shall have been so taken and received as aforesaid; such penalty and amount to be recovered as herein-after mentioned.

5. Agents shall give Security by Bond. Before any person so appointed shall act as agent for army prize or capture, he shall give security, with two sufficient sureties, by a joint and several bond, in the sum of two thousand pounds, to the treasurer and deputy treasurer of Chelsea Hospital for the time being, for duly and faithfully executing his said trust, and accounting for and paying over all sums of money which shall come to his hands by reason of his said agency; which said bond, together with three attested copies thereof, and also three copies of the letter or letters of attorney appointing such person agent, shall be delivered by such agent to the commander-in-chief acting on that expedition, and shall be in the form or to the effect set forth in the schedule marked (A.) hereunto annexed.

6. BOND AND COPIES THEREOF AND COPIES OF LETTER OF ATTORNEY SHALL BE TRANSMITTED TO TREASURER OF CHELSEA HOSPITAL, AND TO COMMANDER-IN-CHIEF AT THE HORSE GUARDS—LETTERS OF ATTORNEY OR COPIES THEREOF SHALL BE EVIDENCE OF AGENCY; AND COPIES OF BOND MAY BE ADMITTED AS EVIDENCE.—The commander-in-chief to whom such bond and attested copies shall be so delivered shall by the first conveyance transmit the said bond, and one attested copy of the said letter of attorney, to the treasurer of Chelsea Hospital, and one of the copies of the said bond to the commander-in-chief at the Horse Guards, and by the next conveyance shall transmit one other such copy of the bond and letter of attorney to the said treasurer of Chelsea Hospital and commander-in-chief's office respectively; and the letters of attorney (or the copies thereof in case the original is lost) transmitted by the said commander-in-chief shall be good and sufficient evidence of the agency of the person or persons to whom such letter of attorney shall have been made, and shall be received and admitted, without further or other proof thereof, to be legal evidence in all his Majesty's courts of record of law or equity, any law, custom, or usage to the contrary thereof notwithstanding; and if the original bond given by any agent shall be lost, or shall not have been received by the treasurer of Chelsea Hospital, in pursuance of the provisions of this Act, then a copy of the said Bond, transmitted by the commanding officer, shall be admitted as evidence of such a bond having been given and entered into; and the plaintiff in any action to recover the penalty of the same shall not be non-suited, or have a verdict against him, for want of or failure in producing the original bond.

7. BOND TO BE PUT IN SUIT ON NON-PERFORMANCE OF THE CONDITIONS.—Upon the non-performance of any condition of the said bond the treasurer or deputy treasurer of Chelsea Hospital shall institute such action and actions, suit and suits, as may be expedient, for the recovery of the penalty thereof; and the same, when recovered, shall be paid to the said treasurer or deputy treasurer of Chelsea Hospital, to and for the use of the said royal hospital, or of the captors who shall have suffered loss by the non-performance of the conditions thereof.

8. A CERTIFIED LIST OF THE PERSONS ENTITLED TO SHARE IN THE CAPTURE SHALL BE TRANSMITTED BY COMMANDING OFFICERS TO CHELSEA HOSPITAL—PENALTY FOR ALTERING LIST, L.500.—As soon as shall be practicable after any prize or capture shall be made, or engagement shall have taken place, the commanding officer of every regiment or corps entitled to share in the proceeds of the said capture, or from any grant in consequence of such engagement, shall transmit to the treasurer of the royal hospital at Chelsea a list, according to the form and containing the particulars set forth in Schedule (B.) to this Act annexed, of the persons in the regiment or corps under his command entitled to share therein, which list shall be signed by the said commanding officer, the names being arranged in the same order in which they stand in the muster rolls of such regiments or corps, and the same shall be examined with and corrected by the muster rolls; and in case, from any urgent cause, no such prize list as aforesaid shall be sent to the treasurer of the said royal hospital, the said treasurer or his deputy shall apply to the commanding officer, or proper officer or office, for lists of the persons entitled to share in such capture, and such lists shall thereupon be made out from the official returns, and the proper officer to whom such application shall be made shall cause the same to be made out, and certify the truth thereof under his hand; and any person or persons who shall alter the name or rank of any person or persons in any list which shall have been so certified as aforesaid, or erase or take away any name therefrom or add any name thereto, after the same shall have been so certified as aforesaid, with intent to defraud any person or persons or corporation whatsoever, shall forfeit the sum of five hundred pounds, to be recovered in manner herein-after mentioned.

9. AGENTS SHALL COLLECT AND CONVERT INTO MONEY THE PROCEEDS OF PRIZE, AND CAPTURE, AND WITHIN ONE MONTH REMIT THE SAME TO TREASURER OF CHELSEA HOSPITAL.—Immediately after the appointment of any person or persons to be the agent or agents for any such prize or capture, such agent or agents shall proceed to collect and convert into money the whole proceeds of such prize or capture, so far as the same relates to the army, and shall, within one month after receiving the money arising therefrom, or any part thereof, into his or their hands, or becoming entitled to receive and capable of receiving the same, pay or by safe conveyance remit unto the treasurer or deputy treasurer of Chelsea Hospital the money arising from such price or capture or from the proceeds thereof.

10. Accounts of Sales of Prizes to be sent by Agent, attested upon Oath—Penalty for neglect, L.100.—Every prize agent shall, immediately after the sale of the proceeds of any capture made by the army is completed, transmit to the treasurer of the said royal hospital at Chelsea an attested copy of the detailed accounts of the sales of such prize, duly verified upon oath, together with attested copies of all vouchers relating thereto; and every such agent who shall neglect or refuse to transmit to the said treasurer such attested copies of accounts and vouchers shall forfeit and pay the sum of one hundred pounds.

11. Agents or other persons wilfully delaying the payment to Chelsea Hospital shall pay Interest after the rate of L.1 per centum per month, and forfeit L.100.—Any agent appointed as aforesaid, or any person employed by him to sell the arms, ammunition, stores of war, goods, merchandize, or other things taken as prize, who shall retain in his hands the money arising from such sale for more than one month after the same shall have come into his hands, so that any wilful or unnecessary delay shall happen in the said money being paid over to Chelsea Hospital, shall pay interest thereon after the rate of one pound per centum per month for such time as the same shall remain in his hands or custody, such interest to be shared amongst the captors entitled to such prize, and shall forfeit to Chelsea Hospital the sum of five hundred pounds for the undue withholding of prize money.

12. Agency Per-centage not to exceed 1½ per cent. exclusive of Brokerage and all other Charges—Agents shall not receive any part of the Per-centage until two months after Distribution.—The per-centage for agency (exclusive of brokerage and actual necessary payments, for which vouchers shall be produced,) for any prize, grant, or capture, shall in no case exceed in the whole the sum of one and a half per cent., to be charged upon the net money paid to the treasurer of Chelsea Hospital for distribution; and such per-centage shall not be deducted from the sum to be paid by the said agent to the treasurer of Chelsea Hospital, but shall be repaid by the said treasurer at the time mentioned in this Act; and no agent or agents shall be entitled to receive any part of the per-centage out of any grant or capture by this Act directed to be allowed to him or them until two months after distribution shall have been commenced by the treasurer of Chelsea Hospital, unless the commissioners of Chelsea Hospital shall direct such per-centage, or any part thereof, to be earlier paid to the agent entitled thereto.

13. L.5 per cent. to be deducted from Prize Money, &c. for the purposes herein-after mentioned.—The sum of five pounds per centum shall be deducted and retained by the treasurer or deputy treasurer of Chelsea Hospital from and out of the net proceeds of all prize money, bounty money, grant, or other allowance of money in the nature of prize or grant, which shall come into or be in the hands of such treasurer or deputy treasurer for distribution; and the said treasurer or deputy treasurer shall from time to time pay over or invest the sums so retained and deducted in the three per centum consolidated bank annuities, in like manner as the balance of forfeited and unclaimed shares of prize money are now invested, and for the purposes herein-after mentioned.

14. Future Grants for Services to be received and distributed by Treasurer of Chelsea Hospital.—All grants hereafter to be made by his Majesty or by Parliament, or otherwise, to the officers and troops of any division of the army employed upon or engaged in any capture or expedition, shall, unless by the grant otherwise expressly directed, be received on behalf of the army by the treasurer of Chelsea Hospital or his deputy, to be distributed to the persons entitled thereto, according to their respective proportions, under the provisions of this Act.

15. Agents, when called upon, shall assist the Treasurer in making out the Scale of Distribution.—So soon as any money arising from capture or grant shall have been paid to the treasurer of Chelsea Hospital or his deputy for distribution, the agent or agents appointed as herein-before mentioned, and any person or persons acting or employed as such, shall, when called upon by notice in writing signed by the said treasurer or deputy treasurer for that purpose, aid and assist the said treasurer or deputy treasurer in making out the scale and lists of distribution, and in completing all matters relating to such distribution.

16. If Agents refuse or neglect to comply with the Provisions of this Act, the Treasurer may withhold their Per-centage.—If any agent shall refuse or neglect to deliver the lists required to be delivered to the treasurer of Chelsea Hospital, or to

comply with any of the provisions of this Act, so far as the same relate to such agent or agents, it shall be lawful for the said treasurer to withhold the payment of the whole or any part of the per-centage otherwise payable to the said agent or agents, until such time as he or they shall have performed the duties and complied with all the provisions in the said Act contained.

17. THE TREASURER, AT THE END OF THREE MONTHS FROM RECEIPT OF PRIZE MONEY, &C. SHALL GIVE NOTIFICATION OF DISTRIBUTION FOR ONE MONTH; AFTER WHICH DISTRIBUTION SHALL BE MADE.—The treasurer of Chelsea Hospital shall, at the end of three months from the time when the proceeds of any prize money, or money arising from any grant, were paid over to him as aforesaid, or as soon after as shall be practicable, give public notification in the London Gazette and in two London morning newspapers that the payment of the shares to the captors will take place at the end of one month from the insertion of the said notification, and at the same time shall notify the amount of the share of an individual in each class, and shall continue to publish such notifications in every succeeding gazette, and twice a week in the said two London morning newspapers, until the end of the said month, when distribution thereof shall be made to the captors, in like manner as distribution is now made by the said treasurer of Chelsea Hospital of unclaimed shares and balances by virtue of any Act now in force, or in such other manner as the commissioners of the said hospital, or any three or more of them, shall direct.

18. AND SHALL KEEP OPEN AN OFFICE FOR RECEIVING CLAIMS AND PAYING SHARES.—The treasurer of Chelsea Hospital, or his deputy, shall keep an office open from ten of the clock in the morning to four of the clock in the afternoon of every day in the week (Sundays excepted) for the purpose of receiving claims for shares, and shall pay such shares, when demanded, according to the regulations in this Act contained.

19. HOW PRIZE MONEY, &C. IS TO BE PAID TO NON-COMMISSIONED OFFICERS AND SOLDIERS.—All shares of prize money due or to become due to non-commissioned officers or soldiers, whether in his Majesty's service at the time of making application, or previously discharged therefrom, and of all grants already made or hereafter to be made by his Majesty, or Parliament, or otherwise, which by virtue of this Act shall be or become payable by the treasurer or deputy treasurer of Chelsea Hospital, shall be paid by the said treasurer or deputy treasurer in manner herein-after mentioned, and in no other manner; (that is to say,) to such non-commissioned officers and soldiers upon their personal application, and in default of personal application then the share of any non-commissioned officer or soldier may be paid to any person standing in the relationship of wife or child, father or mother, or brother or sister, or to the regimental agent of the regiment to which such non-commissioned officer or soldier entitled thereto belongs, or did belong at the time of such prize money becoming due, or to any other regimental agent, in case there shall be no regimental agent of the corps to which such non-commissioned officer or soldier belongs or did belong, to whom the same can be paid on his behalf, by an order in the form set forth in the schedule to this Act annexed marked (C.); and the person making such order shall also procure and transmit a certificate in the form or to the effect set forth in the schedule annexed marked (D.), which certificate shall be signed by the commanding officer, adjutant, and paymaster of the regiment in which such person shall be serving, provided the signatures of such officers can be obtained, and in case the signatures of all or any of such respective officers cannot be obtained, by reason of the regiment being on detachment, or other unavoidable cause, then such certificate shall be signed by such of the said officers as may be present where the non-commissioned officer or soldier is serving, and by any other commissioned officer of the regiment or corps then present, so that there shall not be less than the signatures of three commissioned officers to such certificate; or in case such non-commissioned officer or soldier shall be detached from his regiment, or be in any hospital or sick quarters, so that he cannot procure such certificate of his officers as above mentioned, the same shall be stated particularly on the order, and the certificate shall be signed by the three senior officers belonging to such detachment, or by the surgeon or principal medical officer belonging to such hospital or sick quarters (as the case may require), and by two other principal military or civil officers belonging to such hospital or residing at sick quarters; or in case such non-commissioned officer or soldier shall have been discharged from the service, then he shall make his order in the form aforesaid, and shall procure and transmit a certificate in the form or to the effect set forth in the schedule hereunto annexed marked (E.), and which shall be signed by the minister and one of the churchwardens or overseers, or (if in

Scotland) by the minister and one of the elders, in the parish or place in which such discharged non-commissioned officer or soldier may then reside; or if such non-commissioned officer or soldier shall be dead, then the person entitled to receive his share of such prize or bounty money shall make an order in the form set forth in the schedule to this Act marked (F.), and shall procure and transmit a certificate in the form or to the effect set forth in the schedule hereunto annexed marked (FF.), which certificate shall be signed by the minister and one of the churchwardens or overseers, or (if in Scotland) by the minister and one of the elders, of the parish or place in which such person shall then reside; which said several certificates shall be printed under the orders to which they respectively belong.

20. In certain cases Commissioners of Chelsea Hospital may direct payment of Prize Orders made in favour of persons other than Regimental Agents.— . . . In all cases in which non-commissioned officers or soldiers shall hereafter make their prize orders in favour of other persons than regimental agents, from the circumstance of there being no agent appointed for the regiment, battalion, or corps to which such non-commissioned officers and soldiers respectively belong or are attached at the time of making their prize orders, it shall be lawful for the commissioners of the royal hospital at Chelsea, and they are hereby authorized and empowered, to direct payment to be made upon such orders, by the treasurer or deputy treasurer of the said royal hospital, to the persons named as the payee therein, or to the legal representative of such payee.

S. 20 *in part rep.* 53 & 54 *Vict. c.* 51 (*S.L.R.*).

21. Orders for each person's Share to be separate—No Order valid if made within five miles of Chelsea Hospital.— . . . No order purporting to authorize the receipt of shares due to more than one person shall be deemed valid, but the same shall be void and of no effect, nor shall any order be valid if made or certified within five miles of Chelsea Hospital.

S. 21 *in part rep.* 37 & 38 *Vict. c.* 35 (*S.L.R.*).

22. No Fee to be taken on paying any Share—Penalty, L.100.—No person paying any share or balance of army prize money shall receive or retain any fee, gratuity, or reward on account of any act or thing done relating to the procuring or paying the same, under any pretence whatsoever, on pain of forfeiting for every such offence one hundred pounds.

23. Persons employed by the Hospital not to act as Prize Agents—Penalty, L.500.—No person employed by the commissioners or any officer of Chelsea Hospital in executing the regulations of this Act shall act as an agent for prizes, or be concerned, directly or indirectly, in the business thereof, under the penalty of five hundred pounds, to be recovered as herein-after mentioned.

24. All Assignments by Commissioned Officers shall express the true Consideration Money paid for the same, and the Assignee shall only be entitled to that Sum with Interest. No assignment, bargain, sale, or contract, made or given by any commissioned officer for or in respect of any prize or other money paid into Chelsea Hospital, shall be valid, unless it be therein expressed what was the consideration money actually paid by the person or persons in whose favour such assignment, bargain, sale, or contract is made, to the person making and executing the same; and upon every such assignment, bargain, sale, or contract, the treasurer or deputy treasurer of Chelsea Hospital shall only pay to the person or persons claiming under or by virtue thereof so much money as shall appear to have been advanced and paid as such consideration money as aforesaid, together with interest for the same after the rate of five pounds per centum per annum, where it shall appear upon such assignment, bargain, sale, or contract, that interest was intended to be paid thereon.

[*S.* 25 *rep.* 27 & 28 *Vict. c.* 36, *s.* 3.]

26. Claim of Prize Money by next of kin of Foreigners to be paid in certain cases without Letters of Administration, &c.—In all cases of claim for prize money made by the next of kin of foreigners who shall have been in the pay of his Majesty as non-commissioned officers or soldiers, and who shall have died intestate, it shall be lawful, when such next of kin shall reside out of his Majesty's dominions, for the treasurer or deputy treasurer of the said royal hospital for the time being to pay and

discharge such claims to such next of kin, or any person or persons duly authorized by such next of kin to receive the same, without requiring the production of letters of administration; and in all cases where such foreign non-commissioned officers or soldiers shall have made wills, it shall be lawful for the said treasurer or deputy treasurer in like manner to pay and satisfy such claims to the person or persons who, by inspection of the original will or an authenticated copy thereof, shall appear to be entitled thereto, or to such person or persons as he, she, or they shall duly authorize to receive the same, without requiring the production of probates of such wills.

27. Regimental Debts of Officers, Non-Commissioned Officers, or Soldiers, may be paid out of their Prize Money.—It shall be lawful for the secretary at war for the time being, upon proof satisfactorily made to him that there was any regimental or other public debt due from any officer, non-commissioned officer, or soldier at the time of his death, and that such officer, non-commissioned officer, or soldier had prize money due to him at his decease, to issue to the treasurer of the said hospital or his deputy a certificate of the amount of such regimental debts, together with a requisition that the same may be paid out of the prize money of such officer, non-commissioned officer, or soldier; and the said treasurer or deputy treasurer of Chelsea Hospital shall thereupon reserve out of the said prize money, and pay over to the person named in such requisition, the amount so due from the said officer, non-commissioned officer, or soldier, before any other claim upon the said prize money shall be paid; and the order of the said secretary at war and the receipt of the payee in such requisition named shall be the full and sufficient voucher and discharge to the said treasurer of Chelsea Hospital for the amount so paid.

28. Creditor taking out Administration entitled only to the payment of the sum due to him.—It shall not be lawful for the treasurer of Chelsea Hospital to pay to any creditor taking out letters of administration to a deceased officer, non-commissioned officer, or soldier, any further or greater sum out of the share of such deceased officer, non-commissioned officer, or soldier, than shall appear by affidavit to be made by the person taking out letters of administration, or other satisfactory proof to be given by him, to have been due to him at the time of taking out such letters of administration.

29. In all conjunct Expeditions after adjudication by a Court of Admiralty, the shares of the Army, as soon as ascertained, to be paid over to the Treasurer of Chelsea Hospital for Distribution.—In all conjunct expeditions of his Majesty's land and naval forces, from and after the adjudication of all and every ship or vessel, with their arms, ammunition, tackle, apparel, and furniture, and all the goods, merchandize, and other effects on board the same and of every other matter or thing subject to such adjudication which shall be captured in any road, haven, river, or creek belonging to such fortress or possession, or otherwise, as lawful prize to his Majesty, in any of his Majesty's courts of admiralty or vice admiralty which shall be duly authorized to take cognizance of the same, and which courts are hereby required to proceed therein to lawful adjudication, the share and proportion of his Majesty's army, royal artillery, provincial, black, and other troops in the pay of or belonging to his Majesty, or in the pay of the United Company of Merchants trading to the East Indies, shall, as soon as such shares shall be ascertained, be paid over to the treasurer of Chelsea Hospital in order that the same may be distributed, subject to the provisions, penalties, rules, remedies, and regulations of this Act.

30. Registrars of Admiralty Court to transmit quarterly to Treasurer of Chelsea Hospital a List of the Prizes adjudged in conjunct Expeditions.—The registrars of the High Court of Appeals and High Court of Admiralty respectively shall, on the first day of January, the first day of April, the first day of July, and the first day of October in every year, transmit to the treasurer of the said royal hospital or his deputy a list of all the prizes taken in any conjunct expeditions with the navy and army which shall have been adjudged in their courts respectively in the three months preceding, together with the names of the capturing ships and their commanders, and of the agents for the captors, and the dates of the captures and sentences respectively.

31. Registrars of Vice Admiralty Courts to do the same—Penalty, L.50.—The registrars of every vice admiralty court shall, on the first day of January, the first day of April, the first day of July, and the first day of October in every year, or so soon after each of such quarter days respectively as any ship shall sail for England, transmit to the treasurer of the royal hospital at Chelsea a list of all the prizes taken in any such

conjunct expedition as aforesaid which have been adjudged in their courts respectively during the preceding quarter of a year, together with the dates of the several captures, as far as the same may appear, the names of the capturing ships and their commanders, the agents of the captors, a copy of the decretal part of the sentences upon the same, and at the same time deliver or cause to be delivered a duplicate of the same to the deputy of the said treasurer resident at the place where such courts of vice admiralty are or shall be established, or to which their jurisdiction shall extend; and in case any such registrar of any vice admiralty court shall neglect or refuse to transmit such lists, or to deliver duplicates thereof at the times and in the manner aforesaid, every person so offending shall for every such offence forfeit and pay the sum of fifty pounds.

32. Registrars to transmit to the Treasurer copies of all Letters of Attorney delivered to them by Agents for Prize in conjunct Expeditions—Particulars to be contained in such copies—Copies to be registered, &c.—Penalty for neglect to transmit copies, L.100.—The registrar or registrars of his Majesty's High Court of Admiralty, and of all other courts of admiralty or vice admiralty in his Majesty's dominions, shall on the first day of January, the first day of April, the first day of July, and the first day of October in every year, or within fourteen days after each of such quarter days respectively so far as relates to the High Court of Admiralty, and with respect to courts of vice admiralty as soon after each such quarter days as any ship shall sail for Great Britain, deliver or transmit unto the treasurer of the said hospital, or to the deputy treasurer for the time being, a true copy, under his or their hand or hands, of all letters of attorney that shall be exhibited or delivered to them by any agent or agents for any prize or prizes taken or to be taken by any of his Majesty's ships or vessels of war, or hired armed ships, in any conjunct expedition with his Majesty's army, or by any agent or agents for the receipt and distribution of any bounty bill or bills in which the army shall be entitled to share; which copy shall contain the days of delivery and entry, and the dates of the letters of attorney, the names and places of abode of the agents, the names of the prizes taken, or of the ships of war or privateers of the enemy taken, burnt, sunk, or otherwise destroyed, together with the names of the ships or vessels by which such prizes shall have been taken, or by which such ships of war or privateers of the enemy shall have been taken, burnt, sunk, or otherwise destroyed, together with the date of the condemnation (if any condemnation shall have passed thereon) and of the appeal (if any interposed), to which copies the judge and judges of the said court and courts shall affix his and their seal of office; and the said copies, when received by the said treasurer of the said royal hospital at Chelsea, shall be there registered, and open to inspection by any person gratis; the charges of which copies, and affixing the seal or seals thereto, and transmitting the same to the treasurer of the said hospital, shall be paid by the said agent or agents at the time of registering his or their respective letter or letters of attorney; and in case such registrar or registrars shall neglect or refuse to transcribe and transmit such copy and copies of the said letter and letters of attorney in manner aforesaid, such registrar and registrars so neglecting or refusing shall forfeit the sum of one hundred pounds, to be recovered as herein-after mentioned.

33. Notice of Condemnation in Court of Admiralty of Prize taken in conjunct Expedition, &c. to be transmitted by the Agent to the Treasurer of Chelsea Hospital—Penalty, L.100.—Every agent resident in the United Kingdom shall, within one month after any condemnation in the High Court of Admiralty of any prize taken in any conjunct expedition with the army, transmit a notice of such condemnation to the treasurer of Chelsea Hospital, or his deputy, together with an account of the state of the property condemned at the time of such transmission, and shall from time to time furnish to the said treasurer or deputy treasurer such other particulars as shall be required by him for the purposes of this Act, on pain of forfeiting for every neglect the sum of one hundred pounds, unless a reasonable cause be shown to and approved by the Court of Admiralty why such information and particulars have not been furnished as aforesaid.

[*S.* **34** *rep.* 7 *W.* 4 *& 1 Vict. c.* 32, *s.* 1.]

35. Commissioners of Chelsea Hospital may issue Precepts to such persons as they believe to have received Money belonging to Troops, to render an account of the same within a limited time—Monies unpaid to be remitted with the account,

AND TO BE RECOVERABLE BY TREASURER—PENALTY FOR NEGLECT TO ACCOUNT, L.100.—It shall be lawful for the commissioners of the said royal hospital at Chelsea from time to time to issue precepts under their hands, or under the hands of any three of them or more, (such precepts to be in the form set forth in the schedule to this Act marked (H.)) to such persons as they may have reason to believe have received monies payable to such officers, soldiers, or troops as aforesaid, under any power of attorney or order heretofore or hereafter to be executed, requiring them within two calendar months next after the time at which such precept shall have been served, in case the person or persons to whom it shall be directed shall reside within the United Kingdom, but if he or they shall reside in any of his Majesty's dominions abroad, then by the first ship which shall sail from the port or place nearest to that at which such person or persons shall reside next after the expiration of two calendar months from the time at which such precept shall have been served as aforesaid, to deliver or transmit upon oath (which oath any justice of the peace or magistrate, or the treasurer or deputy treasurer of the said royal hospital at Chelsea for the time being, is hereby authorized to administer,) an account of all monies which may have been received by such person or persons under such powers or orders as aforesaid; and in case the same or any part thereof shall have been paid over, then the said account shall specify to whom the same or any part thereof has been so paid over; and the said parties shall at the same time pay or remit to the treasurer or deputy treasurer of Chelsea Hospital such part of the said monies as shall remain in his or their hands unpaid to the parties beneficially entitled to it or to their use; and in case such monies shall not be paid over or remitted to the said treasurer or deputy treasurer within the time limited by this Act, the same shall be recoverable from the person detaining the same, by action for money had and received, or otherwise, in the name of such treasurer or deputy treasurer of the said royal hospital at Chelsea; and the same, when so paid in or recovered, shall be for the use of the parties beneficially entitled thereto, or be otherwise applied as forfeited and unclaimed shares of army prize are by this Act directed to be applied; and in case any person or persons upon whom any such precept shall be served as aforesaid shall neglect or refuse to deliver or transmit such account within the time limited by this Act, he or they shall for every such offence forfeit and pay to the use of the said royal hospital at Chelsea the sum of one hundred pounds, to be recovered as herein-after mentioned.

36. PRECEPTS TO BE REPEATED UNTIL ACCOUNTS RENDERED—PENALTY FOR EACH NEGLECT, L.100.—In case any person or persons upon whom any such precept or precepts shall have been served shall neglect or refuse to pay obedience thereto, and shall in consequence thereof pay the penalty incurred by such disobedience, it shall nevertheless be lawful for the said commissioners of the said royal hospital, and they are hereby empowered, to repeat such precept or precepts until the accounts thereby required shall have been duly rendered and delivered; and such person and persons are hereby declared to be liable to a separate penalty of one hundred pounds for every precept to be served upon him or them, to which due obedience shall not be paid, to be recovered in manner aforesaid.

37. TREASURER OF CHELSEA HOSPITAL TO HAVE ACCESS TO BOOKS, &C. OF ANY ACCOUNTING PARTY—PENALTY FOR NEGLECT TO PRODUCE, L.100.—It shall be lawful for the treasurer and deputy treasurer of the said royal hospital at Chelsea, with respect to all monies which have been received by such person or persons as last aforesaid, under any power or order whatsoever, at all seasonable times to have access to the books, papers, accounts, and vouchers of any person or persons to whom such precepts shall be directed, relative to such transactions to which such precepts shall have reference, and such person and persons are hereby required to produce the same to the said treasurer or deputy treasurer whenever he or they shall be required so to do, in order that such treasurer or deputy treasurer may peruse, examine, and take extracts or copies of so much thereof as he may think proper; and in case any such person or persons as last aforesaid shall refuse or neglect to produce such books, papers, and accounts, or any or either of them, upon ten days notice to be given to him or them for that purpose, he or they shall forfeit and pay for every such offence, to the use of the said royal hospital at Chelsea, the sum of one hundred pounds to be recovered as hereafter mentioned.

38. PRIZE MONEY IN THE HANDS OF PERSONS UPON WHOM PRECEPTS ARE SERVED TO BE CONSIDERED AS BELONGING TO CHELSEA HOSPITAL.—From and immediately after the service of any such precept as aforesaid all monies received under such powers or orders

as aforesaid, which shall at that time be in the hands of the person or persons to whom such precept shall be directed, shall be deemed and considered to be the property of the commissioners of the said royal hospital at Chelsea, to be applied by them in the manner by this Act directed, ...

S. 38 *in part rep.* 53 & 54 *Vict. c.* 51 (*S.L.R.*).

39. TREASURER OR HIS DEPUTY MAY PROVE IN ANY BANKRUPTCY FOR PRIZE MONEY, &C. DUE FROM THE BANKRUPT; AND MAY RECEIVE DIVIDENDS; AND MAY VOTE FOR ASSIGNEES; AND ASSENT TO THE ALLOWING OF CERTIFICATES; AND EXERCISE OTHER POWERS OF CREDITORS.—It shall be lawful for the said treasurer or deputy treasurer for the time being of the aforesaid hospital, or their or either of their deputy or deputies to be by them or either of them for such purposes nominated or appointed by deed or writing under their or either of their hands or hand, for and on behalf and in the name or names of the said treasurer or deputy treasurer for the time being, or either of them, or for and on behalf and in the name or names of the commissioners for the time being of the said hospital, or any of them, to appear before the commissioners or major part of the commissioners named or to be named in any commission of or commissions of bankrupt, in any public or private meetings of such commissioners under any such commission or commissions of bankrupt, and to prove the amount of all prize or bounty money, grant, or monies, or balances of prize or bounty money, grant, or monies, or other allowances of money in the nature thereof, in the hands, custody, or power of or unpaid by such bankrupt or bankrupts respectively, at the date and issuing of any such commission of bankrupt, in or to which the said hospital, or the army generally, or any division or divisions, battalion or battalions, regiment or regiments, individual or individuals of the army, shall be interested or entitled under the several Acts of Parliament already enacted and now in force, or at any time hereafter to be enacted or become in force, and to make every such proof and proofs of debt upon the oath or affirmation, as the case may require, of such treasurer or deputy treasurer of the said hospital for the time being, or of any clerk or clerks or other officer or officers of the said hospital, conversant or acquainted with the books and affairs of the said hospital, who shall swear or affirm as to the amount of such prize, bounty, grant, or other monies, or balances of prize, bounty, grant, or other monies, of which such proof shall be so tendered, to the best of his or their knowledge and belief, after an examination of the books of the said hospital relating thereto, or by a production of the books of the said hospital, or by a production of the certificate of the examiner of prize accounts, or by a production and examination of the book or books of such bankrupt or bankrupts, or the personal examination on oath of such bankrupt or bankrupts respectively under such commission or commissions of bankrupt, and which production or examination of the bankrupt's books and accounts, and of such bankrupt or bankrupts themselves, the said treasurer or deputy treasurer, or such other person or persons as they or either of them shall so appoint as aforesaid, are hereby authorized and empowered to require, or, in default of such evidence, then by such other evidence as to the said commissioners named and authorized in every such commission of bankrupt under which such proof shall be tendered, or the major part of them, shall under the circumstances seem reasonable; the making of every such proof nevertheless, to be liable to such opposition, and every such proof, when made, liable to be expunged in the same way and upon the same evidence as any other proof or proofs of debt by any other person or persons claiming to prove or having proved under such commission or commissions of bankrupt respectively; and also to receive and take, and to give good and effectual discharges for, all and every dividend and dividends payable or to become payable by or out of the estate and effects of such bankrupt or bankrupts, or any part thereof, upon the amount of any and every such proof of debt under such commission; and also to vote in the choice of any assignee or assignees of the estate and effects of every such bankrupt for the whole sum proved; and also to assent to or dissent from the signing and allowing the certificate or certificates of every such bankrupt; and further, to have and exercise every other right, authority, and power whatsoever in respect of the estate and effects of every such bankrupt, or the sale or disposition thereof, and otherwise to act therein, or in any matter relating thereto, in the same manner and to the same extent as any other creditor of such bankrupt proving a debt to a like amount under such commission or commissions of bankrupt respectively might or could do; . . . . . .

S. 39 *in part rep.* 51 & 52 *Vict. c.* 57 (*S.L.R.*).

[*Ss.* **40, 41** *rep.* 39 *&* 40 *Vict. c.* 14, *s.* 1.]

42. Forfeited or unclaimed Shares and Per-centage may be applied to the general services of the Hospital.—It shall and may be lawful for the commissioners of the said royal hospital at Chelsea at all times hereafter, by warrant under their hands, or under the hands of any three or more of them, directed to the treasurer or deputy treasurer of the said hospital, from time to time to appropriate such sums of money forming a part of the prize money already forfeited and unclaimed, or hereafter to become forfeited and unclaimed, and also of the per-centage hereafter to arise by virtue of this Act, as they may think expedient and proper, to the general services and expenses of the said royal hospital, or relating thereto.

43. Treasurer may appoint Deputies for certain purposes.—It shall be lawful for the said treasurer of the said royal hospital at Chelsea for the time being to nominate and appoint such person or persons as he may think fit to be his deputy or deputies, for the specific purposes of receiving applications and claims for prize and bounty monies to which the army shall be entitled, and for such other specific purposes of this Act as he may deem advisable, at such ports or places as he shall from time to time think necessary.

44. Receipts exempted from Stamp Duty.—All receipts given or taken for prize money or balances paid or received by the treasurer or deputy treasurer of Chelsea Hospital shall be exempt from any duty of stamps whatsoever; any law or statute to the contrary thereof notwithstanding.

45. Punishment of persons taking False Oaths, &c.—If any person or persons shall falsely make oath to any of the matters herein-before required to be verified on oath, or suborn any other person so to do, such person or persons shall suffer the like pains and penalties as are incurred by persons committing wilful and corrupt perjury.

46. Offences committed abroad may be tried in any county in England.—Where the offence of taking a false oath, or suborning any person so to do, or any of the offences by this Act made cognizable in any of his Majesty's courts of record in Great Britain, shall be committed out of this realm, the same may be alleged to be committed, and may be laid, inquired of, tried, and determined in any county in England, in the same manner to all intents and purposes as if the same had been actually done or committed within the body of such county.

47. Penalties and Forfeitures how to be recovered.—All penalties and forfeitures imposed by this Act, wheresoever the same shall arise or become forfeited, may be recovered by action, bill, plaint, or information in any of his Majesty's courts of record in Great Britain, unless in cases where any other mode is by this Act particularly directed; and all penalties and forfeitures imposed by this Act, which shall arise or become forfeited in any part of his Majesty's dominions abroad, may be recovered in any court of record of his Majesty in the colony, territory, or place where the same shall arise or have become forfeited, or in any of his Majesty's vice admiralty courts having jurisdiction there.

48. Penalties to go to Chelsea Hospital.—All pecuniary penalties and forfeitures by this Act imposed, other than such as are by this Act directed to be otherwise applied and disposed of, shall go and be applied to the use of the royal hospital at Chelsea, and shall be sued for in the name of the commissioners thereof.

49. Punishment of Personation, Forgery, or Perjury in relation to Prize Money.—If any person shall knowingly and willingly personate or falsely assume the name or character, or procure any other person to personate or falsely assume the name or character of any officer, non-commissioned officer, soldier, or other person entitled or supposed to be entitled to any prize money, grant, bounty money, share, or other allowance of money due or payable or supposed to be due or payable for or on account of any service performed or supposed to have been performed by any officer, non commissioned officer, soldier, or other person who shall have really served or be supposed to have served in his Majesty's army or in any other military service, or shall personate or falsely assume, or act, aid, or assist in personating or falsely assuming the name or character, or procure any other person to personate or falsely assume the name or character of the executor or administrator, wife, widow, next of kin, relation, or creditor of any such officer, non-commissioned officer, soldier, or other person as aforesaid, in order to receive or to enable any other person to receive any prize money, grant, bounty

money, share, or other allowance of money due or payable or supposed to be due or payable for or on account of any service performed or supposed to have been performed by any such officer, non-commissioned officer, soldier, or other person as aforesaid; or if any person shall forge or counterfeit or alter, or cause or procure to be forged or counterfeited or altered, or knowingly and willingly act or aid or assist in forging or counterfeiting or altering the name or handwriting of any officer, non-commissioned officer, soldier, or other person entitled or supposed to be entitled to any prize money, grant, bounty money, share, or other allowance of money due or payable or supposed to be due or payable for or on account of any service performed or supposed to have been performed by any officer, non-commissioned officer, soldier, or other person who shall have really served or be supposed to have served in his Majesty's army, or other military service, or the name or handwriting of any officer or under officer, clerk, or servant of or in the employ of the commissioners of the said royal hospital at Chelsea, or the name or handwriting of any officer or person in any way concerned in the paying, or the ordering, directing, or causing the payment of any such prize money, grant, bounty money, share, or other allowance of money due or payable or supposed to be due or payable as aforesaid; or shall falsely make, forge, counterfeit, or alter, or willingly act, aid, or assist in the false making, forging, counterfeiting, procuring, or altering any letter of attorney, bill, ticket, order, certificate, voucher, receipt, will, or any other power, instrument, warrant, authority, document, or writing whatsoever, relating to or in anywise concerning the payment of or the obtaining or claiming any such prize money, grant, bounty money, share, or other allowance of money due or payable or supposed to be due or payable as aforesaid, in order to receive, obtain, or claim any such prize money, grant, bounty money, share, or other allowance of money due or payable or supposed to be due or payable as aforesaid; or shall utter or publish as true, or knowingly and willingly act or aid or assist in uttering or publishing as true any falsely made or forged, or counterfeited or altered letter of attorney, bill, ticket, order, certificate, voucher, receipt, will, or any other power, instrument, warrant, authority, document, or writing whatsoever, with intention to receive, obtain, or claim, or to enable any other person to receive, obtain, or claim from the said commissioners of the said royal hospital, or from any officer, under officer, clerk, or servant of the said commissioners, or from any person whatsoever authorized or supposed to be authorized to pay the same, the payment of any such prize money, grant, bounty money, share, or other allowance of money due or payable or supposed to be due or payable as aforesaid, with intention to defraud any person or persons whatsoever, or any body or bodies politic or corporate whatsoever; or shall knowingly take a false oath in order to obtain letters of administration or the probate of any will, in order to receive, obtain, or claim, or to enable any other person to receive, obtain, or claim any prize money, grant, bounty money, share, or other allowance of money due or payable or supposed to be due or payable for or on account or in respect of the service of any officer, non-commissioned officer, soldier, or other person as aforesaid, who shall have really served or be supposed to have served in his Majesty's army or other military service; or shall demand or receive any prize money, grant, bounty money, share, or other allowance of money due or payable or supposed to be due or payable as aforesaid, upon letters of administration or a probate of a will, knowing the will on which such probate shall have been obtained to be false, forged, or counterfeited, or knowing such letters of administration or the probate of such will as last aforesaid to have been obtained by means of any such false oath, with intention to defraud any person or persons whatsoever, or any body or bodies politic or corporate whatsoever; all and every person so offending, being thereof lawfully convicted, shall be and are and is hereby declared and adjudged to be guilty of felony, and shall be transported beyond the seas for life, or for any term not less than seven years, as the court before whom such person or persons shall be convicted shall adjudge.

50. ALL PRIZE MONEY, &C. SHALL BE DEEMED PUBLIC MONEY.—All prize and bounty money, grant, or other money or monies in the nature thereof, which shall become payable to the treasurer or deputy treasurer of Chelsea Hospital in manner herein-before mentioned, shall be deemed to be public monies in the hands of any persons receiving or detaining the same.

SCHEDULES to which this Act refers.

SCHEDULE (A.)

Know all men by these presents, that we, the agent of and the sureties of are jointly and severally held and firmly bound to the treasurer and deputy treasurer of Chelsea Hospital for the time being, and to each of them, in the sum of two thousand pounds of lawful money of the United Kingdom of Great Britain and Ireland, current in England, to be paid to the said treasurer or deputy treasurer of Chelsea Hospital for the time being, or either of them, or their certain attorney, successors, or assigns, for which payment to be well and truly made we bind ourselves and each of us, our and each of our heirs, executors, and administrators, firmly by these presents sealed with our seals, dated the day in the year of the reign of our sovereign lord by the grace of God of the United Kingdom of Great Britain and Ireland, King, defender of the faith, and in the year of our Lord one thousand eight hundred and .

The condition of the above-written obligation is such, that if the above-bounden shall duly execute his trust in all matters of prize agency committed to his care, particularly in all matters relating to the selling the property, and the collecting and receiving and transmitting and paying over all prize or bounty money, grants, and other allowances of money arising from capture or service at and if the above-bounden , his executors and administrators, do and shall in all things strictly conform to the rules, regulations, and provisions of the several Acts now in force with respect to prize or bounty money, grants, or other allowances of money, as far as the said Acts relate to the duties of an agent, particularly an Act passed in the year of his Majesty King William the Fourth, intituled "An Act for "consolidating and amending the laws relating to the payment of army prize money," then this obligation to be void, or else to remain in full force and virtue.

SCHEDULE (B.)

FORM of PRIZE LIST.

Name.	Company or Troop.	Rank.	Trade or Calling.	Place of Birth.	Whether dead, and Date of Death.	Remarks

SCHEDULE (C.)

ORDER for paying the Prize money of serving.

Name.	Company or Troop.	Rank.	Trade or Calling.	Place of Birth.	——
					£ s. d.

Should the prize money to be received on this order amount to two pounds, this bill must be on a shilling stamp.

At seven days sight pay to [or to the regimental agent, as the case may be,] the amount of the share of prize or bounty money due to me in respect of my service as a in regiment of at the capture of in the month of 18 .

To the treasurer or deputy treasurer of Chelsea Hospital. (*)

Directions for executing the order.

The above order must be signed by the soldier at the mark (*). The certificate (D.) must be signed by the commanding officer, adjutant, and paymaster; if on detachment, by such of the said officers as are present where he is serving and any other officers of the regiment; or if in hospital or sick quarters, which must be particularly stated, then by the three senior officers of the detachment, or surgeon, or principal medical officers, and two other principal military or civil officers belonging to such hospital or residing at such sick quarters.

Schedule (D.)

Certificate for a Soldier now serving.

These are to certify, that we have examined the above-named who signed the above order [or acknowledged the signature to the above order to be his signature] in our presence; and from the documents he has shown to us, and his answers to our questions, we have reason to believe that the said was serving in the above-mentioned regiment at the time of making the said capture, and that he is now serving as a in the regiment of . Given under our hands at the day of 18 .

Commanding Officer.
Adjutant.
Paymaster.

Schedule (E.)

Certificate for a Soldier who has been discharged.

These are to certify, that we have examined the above-named who signed or acknowledged the above order in our presence; and from the documents he has shown us, and his answers to our questions, we have reason to believe that the said was serving in the above-mentioned regiment at the time of making the above capture, and that he was discharged on the day of 18 ; that he now resides in this parish, and is an out-pensioner of Chelsea Hospital, at per diem.*

Given under our hands at near the post town of this day of 18 .

Minister.
Churchwarden or Overseer.
Elder.

* If not a pensioner, these words to be erased.

Directions for executing the above Certificate.

The above certificate must be signed by the minister and one of the churchwardens or overseers (or elders) of the parish in which the discharged soldier resides, who should have the man's instructions produced to him, if a pensioner, and if not, his discharge, the date of which it is absolutely necessary should be inserted in the space left for that purpose.

SCHEDULE (F.)

ORDER for paying the Prize Money of deceased.

Name.	Company or Troop.	Rank.	Trade or Calling.	Place of Birth.	——
					£ s. d.

Should the prize money to be received on this order amount to two pounds, this bill must be drawn on a shilling stamp, and affixed hereto.

At seven days sight pay to [or to the order of the regimental agent] the amount of the share of prize or bounty money due to of in respect of his service as a in the regiment at the capture of in the month of 18 .

To the treasurer or deputy treasurer of Chelsea Hospital. (*)

Next of kin of the above-mentioned deceased [or representative, as the case may be].

DIRECTIONS for executing the Order.

The above order must be signed by the claimant at the mark (*). The certificate (F. F.) must be signed by the minister, and one of the churchwardens or overseers (or elder) of the parish or place where the person making the order resides; and the minister is particularly requested to satisfy himself that the person signing the above order is the legal representative of the deceased, the date of whose death it is absolutely necessary should be inserted in the space left for that purpose.

SCHEDULE (F. F.)

CERTIFICATE for a Person who is entitled to the Prize Money of a deceased Soldier.

These are to certify, that we have examined the above-named the claimant, who signed or acknowledged the above order in our presence; and from the documents shown to us, and answers to our questions, we have reason to believe that the above-named party originally entitled, is dead; that he died on and that the said , the claimant, is the and legal representative of the said deceased; and that now resides in this parish, and is duly entitled to receive the same. Given under our hands at near the post town of this day of one thousand eight hundred and .

Minister.
Churchwarden or Overseer.
Elder.

SCHEDULE (H.)

By virtue of the authority in us vested by an Act passed in the second year of the reign of his present Majesty, intituled "An Act for consolidating and amending the "laws relating to the payment of army prize money," we, the undersigned commissioners of the said royal hospital at Chelsea, do hereby require you, within two calendar months next after the time at which this precept shall be served, to deliver or transmit to the deputy treasurer of the said royal hospital, upon oath, an account of all monies by you received under or by virtue of any powers of attorney or power of attorney, orders or order, by which you have been authorized to receive any prize monies or other

monies payable to the army; and in case the said monies so received by you under or by virtue of such powers or power, orders or order, as aforesaid, or any part thereof, have been paid over, then to whom the same or any part thereof has been so paid over as aforesaid: And we do by virtue of the said authority further require, that you shall at the same time pay or remit to the treasurer or deputy treasurer of Chelsea Hospital such part of the said monies as shall remain in your hands unpaid, for the parties beneficially entitled to it; and to deliver or transmit such account as aforesaid, within the time in that behalf above mentioned, you shall by no means neglect or refuse, under the penalty in that behalf provided. Given under our hands, this day of in the year of our Lord one thousand eight hundred and .

[*Sched.* (*K.*) *rep.* 51 *&* 52 *Vict. c.* 57 (*S.L.R.*).]

CHAPTER LIX.

THE GOVERNMENT ANNUITIES ACT, 1832 (*Short Titles Act*, 1896).

AN ACT to transfer the Management of certain Annuities on Lives from the Receipt of His Majesty's Exchequer to the Management of the Commissioners for the Reduction of the National Debt; and to amend an Act for enabling the said Commissioners to grant Life Annuities and Annuities for Terms of Years. [4th July 1832.]

[*Preamble recites* 18 *Geo.* 2, *c.* 9, 19 *Geo.* 2, *c.* 12, 30 *Geo.* 2, *c.* 19, 5 *Geo.* 3, *c.* 23, 18 *Geo.* 3, *c.* 22, 19 *Geo.* 3, *c.* 18, 29 *Geo.* 3, *c.* 41, *and* 30 *Geo.* 3, *c.* 45.]

[*S.* **1** *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).]

2. ANNUITIES CREATED BY RECITED ACTS TRANSFERRED TO MANAGEMENT OF COMMISSIONERS FOR REDUCTION OF NATIONAL DEBT.—The said several annuities on lives which were created by the said several recited Acts shall be placed under the management of the commissioners for the reduction of the national debt, and shall be payable and paid at the Bank of England, under the regulations herein-after directed.

[*S.* **3** *and s.* **4** (*reciting* 10 *Geo.* 4, *c.* 24, *and* 30 *Geo.* 3, *c.* 45) *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).]

5. A DECLARATION TO BE MADE IN LIEU OF THE AFFIDAVIT OR AFFIRMATION HITHERTO REQUIRED UNDER RECITED ACTS—PENALTY FOR FALSE DECLARATION, L.100.—In all cases in which any affidavit or solemn affirmation was required by any of the said recited Acts aforesaid, the person or persons who would, under the said recited Acts, be required to take or make such affidavit or solemn affirmation, shall make and subscribe a declaration in lieu thereof, in such form and words and under such regulations as may be directed by the said commissioners, or by the comptroller general or assistant comptroller acting under the said commissioners; and if any such declaration shall be untrue in any particular, the person making the same shall, over and above every other penalty to which such person may become subject, forfeit the sum of one hundred pounds.

6. AFFIDAVITS OR AFFIRMATIONS SHALL STILL BE VALID.—Provided always, that if any affidavit or solemn affirmation shall be produced for the purpose of receiving any life annuity under the provisions of the said recited Acts, such affidavits and solemn affirmations, notwithstanding the repeal thereof by this Act, shall be deemed valid and effectual for the purpose of receiving such life annuities, any thing in this Act to the contrary thereof in anywise notwithstanding.

7. AFFIDAVIT OR AFFIRMATION MAY BE REQUIRED IN CERTAIN CASES.—Provided nevertheless, that the said commissioners, or comptroller general or assistant comptroller acting under the said commissioners, may in any case require any such person or persons to make affidavit or solemn affirmation in confirmation of any such declaration; and every such person shall, and he, she, or they is and are hereby thereupon required to make such affidavit or solemn affirmation before such comptroller general or assistant comptroller, or other officer appointed for that purpose by the said commissioners, who are hereby respectively authorized to administer the same, or before any justice of the peace or magistrate, any thing in this Act to the contrary thereof notwithstanding.

8. Upon proof of Nominees being living, or of their Deaths, Warrants to be issued for payment of the Annuities or the Arrears, &c. thereof, upon which the Bank shall pay the amount.—Upon proof of the existence of the nominee of any life annuity created by any of the said first-recited Acts, or by the said recited Act of the tenth year of the reign of his late Majesty, or of any life annuity which may hereafter be created by the said last-recited Act, either by the personal appearance of such nominee before the officer of the said commissioners, or in case of the nonappearance of such nominee, by the production of a certificate proving the existence of such nominee, as is required by the said recited Acts, together with such declaration aforesaid, or other evidence to the satisfaction of the said commissioners, or of the officer or officers acting under the said commissioners, the said officer shall thereupon issue to the person or persons entitled to any annuity depending upon the life of such nominee a warrant or warrants in such form as shall be approved by the said commissioners, or by the comptroller general or assistant comptroller acting under the said commissioners, addressed to the cashiers of the Bank of England, for the half-yearly payment or payments of the annuity which shall be then depending upon the life of such nominee; or upon proof of the death of the said nominee, then a warrant shall be issued by the said officer for the payment of one fourth part of the expired annuity which depended upon the life of such nominee, which, under the provisions of the said Act of the tenth year of the reign of King George the Fourth, is allowed to be claimed by the person or persons entitled thereto, provided such fourth part shall be claimed by the person or persons entitled thereto within the period prescribed by the said recited Act, together with any half-yearly payment of the said annuity which may be outstanding at the time of his or her death; and upon the said warrant or warrants being produced and lodged at the said bank, the said cashier or cashiers shall pay the sum expressed therein to the person or persons producing the same.

9. Holders of Life Annuities under first-recited Acts to have like Annuities in the Books of the Commissioners—All Life Annuities shall be transferable in the Books of the Commissioners, &c.; but must be transferred entire and not in parts or shares.—All persons who at the time of the passing of this Act shall be holders of and stand possessed of any Exchequer order or orders for or in respect of any annuities on lives created by any of the said first-recited Acts, heretofore payable at the receipt of his Majesty's Exchequer, or who at the time of the passing of this Act shall stand possessed, in the books of the Bank of England, of any annuity depending upon the life of the said nominee, under any Act or Acts heretofore in force enabling the said commissioners for the reduction of the national debt to grant life annuities, shall be deemed and taken to all intents and purposes to stand possessed of such several and the like annuities in the books of the said commissioners, and shall be entitled to all the several rights, titles, interests, and benefits in and to any life annuity, of whatsoever kind, whether such life annuity shall be immediate or deferred, or whether actually in the course of payment at the time of the passing of this Act, or not, according to the several provisions of the said recited Acts or of any of them; and such several life annuities, and also all life annuities which may hereafter be created in pursuance of the said recited Act of the tenth year of his late Majesty, shall from time to time be transferable in the books of the said commissioners for the reduction of the national debt, or, so far as relates to any Exchequer life annuities or orders, shall be assignable and shall be paid to and shall be transferable and assignable by the persons respectively entitled to such annuities, or by some person duly authorized to receive or transfer the same, according to such form and under such regulations as shall be approved of by the said commissioners for the reduction of the national debt, or by the said comptroller general or assistant comptroller acting under the said commissioners: Provided always, that such annuity shall be transferred entire, and not in parts or shares, and that the original nominee of any annuity shall never be varied or changed, notwithstanding such transfer.

10. Commissioners may direct new Orders to be made out and signed, in lieu of Orders lost or destroyed, without authority from Treasury or Court of Exchequer, as required by 29 Geo. 3, c. 41.—It shall be lawful for the said commissioners for the reduction of the national debt to authorize the comptroller general, or his assistant, to make out and sign any new order, in such form as the said commissioners shall direct, as a substitute for and in lieu of any order of a like description

which may have been lost or destroyed or become defaced or obliterated, without any such authority from the Treasury, or certificate from any judge of the Court of Exchequer, as is specified and required in the said recited Act of the twenty-ninth year of the reign of his Majesty King George the Third, or in any case whatever relating to any of the said recited Acts, upon proof being given to the satisfaction of the said commissioners, by the oath or solemn affirmation to be made and taken before the said comptroller general or assistant comptroller, or before any justice of the peace or magistrate, by the persons applying for such new order, or any other person, of such loss or destruction, or production of the order in lieu of which a new order is required; and all such new orders, so signed, shall be deemed good and valid to all intents and purposes as if the same had been made under the provisions of the said recited Acts or either of them, any thing in the said recited Acts to the contrary notwithstanding.

11. Accounts of Annuities for terms of years unclaimed for ten years, to be made up quarterly at the Bank; and the Annuities to be transferred to the Commissioners, and placed under the like Regulations as other Stocks are subject to by 56 Geo. 3, c. 60.—[*Recital of* 10 *Geo.* 4, *c.* 24, *s.* 39; 56 *Geo.* 3, *c.* 60] The Bank of England shall cause to be made up quarterly an account of all annuities for terms of years already granted or which may hereafter be granted by the said commissioners under the provisions of the said recited Act of the tenth year of his late Majesty, which shall have remained unclaimed for the space of ten years then next preceding such quarters respectively; and all such unclaimed annuities and all arrears thereof shall be transferred to the commissioners for reduction of the national debt, and shall be subject to the like restrictions and regulations as all other capital stocks and annuities are now subject by the said recited Act of the fifty-sixth year of his said Majesty;[1] any thing in any Act to the contrary thereof notwithstanding.

[1] *By s.* 68 *of* 33 *&* 34 *Vict. c.* 71, *Part VII. of that Act is substituted in this section for* 56 *Geo.* 3, *c.* 60.

12. Commissioners of National Debt to certify to the Treasury before each Quarter Day the amount of Annuities payable under the first-recited Acts—Treasury to issue Warrant for payment of the amount to the Commissioners.—For the purpose of ascertaining from time to time the amount of annuities for lives payable under the authority of the said several first recited Acts, the comptroller general or assistant comptroller acting under the said commissioners shall, within fourteen days next preceding the fifth day of January, the fifth day of April, the fifth day of July, and the tenth day of October in each and every year certify to the Treasury the amount of annuities for lives (first deducting therefrom the amount chargeable on account of the several lives nominated by the Treasury under the provisions of the said recited Act of the thirtieth year of King George the Third) the half-yearly payments of which shall from time to time be chargeable, and the same are hereby made chargeable, upon the said consolidated fund, on each of such days respectively; and the Treasury shall thereupon order and direct, by warrant, the sums specified from time to time in every such certificate to be issued and paid out of the consolidated fund from time to time to the Bank of England, to be by them placed to the account of the commissioners for the reduction of the national debt, for the purpose of paying all such annuities respectively created by the said first-recited Acts of the eighteenth, nineteenth, and thirtieth years of King George the Second, and by the fifth, eighteenth, and twenty-ninth years of King George the Third.

13. Letters of Attorney for transferring or receiving Annuities to continue valid under this Act.—All letters of attorney from time to time in force, which shall have been granted for the purpose of transferring or selling or receiving such life estate so purchased under any of the said recited Acts, shall be valid and effectual for the purposes of this Act, and receiving the same under the provisions of this Act; any thing in any Act or Acts, or this Act, to the contrary notwithstanding.

14. Appointment of Officers, &c.—The commissioners for the reduction of the national debt are hereby empowered from time to time to appoint such officers, clerks, and other persons as may be necessary for carrying this Act into execution, and as may be approved of by the Treasury.

15. Suit, &c. may be instituted against the Comptroller or Assistant Comptroller in all cases in which the Bank or the Auditor of the Exchequer would have been liable if the Annuity had remained in their or his Books—Comptroller,

&c. NOT TO BE PERSONALLY LIABLE—SUIT NOT TO ABATE ON DEATH OF COMPTROLLER, &c. —[*Recital*] In all cases in which any person entitled to or interested in any annuity transferable in the books of the governor and company of the Bank of England, or in any annuity recorded in the books of the said auditor of his Majesty's Exchequer, might have instituted any action, suit, or legal proceeding in any court of law or equity, for or in respect of any act, matter, or thing done by the said governor and company, or by the said auditor, or their officers, or any other person or persons, in relation to any such annuity, or any forged or other illegal transfer thereof, such action, suit, or legal proceeding may be instituted and carried on against the comptroller general of the said commissioners or the assistant comptroller general of the said commissioners for the time being, and damages recovered or other remedy given in any court of law or equity against such comptroller or assistant as might have been recovered or given against the Bank of England in case the said annuity had remained transferable in the books of the Bank of England, or against the said auditor in case the said annuity stood recorded in the books of the said auditor; and all damages and sums of money and costs recovered in any such suit or proceeding shall be paid by the order of the commissioners of the Treasury, (which order the said commissioners are hereby required to give,) out of any of the aids and supplies voted by Parliament for the public service: Provided always, that the body, or goods, chattels, lands, or tenements of such comptroller or assistant comptroller, shall not, by reason of his being defendant, under the provisions of this Act, in any such suit, action, or party in any such proceeding, be liable to be arrested, seized, detained, or taken in execution; and no such suit shall abate on the death or removal from office of the comptroller or assistant comptroller against whom the said suit was had, but shall continue in full force against his successor.

16. DECLARATION, &c. NOT TO BE LIABLE TO STAMP DUTY.—No declaration required by this Act to be made to the commissioners for the reduction of the national debt, nor any warrant, certificate, affidavit, or affirmation, or other instrument, (save and except all letters of attorney which shall or may be granted from time to time for the purposes of this Act,) made out by or under the authority of the said commissioners, shall be liable to the payment of any stamp duty.

[*S.* **17** *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).]

18. POWERS OF TREASURY, AUDITOR OF EXCHEQUER AND BANK TO BE EXERCISED BY THE COMMISSIONERS.—All the powers and authorities which are by the said recited Acts, or any or either of them, respectively given to the Treasury, or to the auditor of the Exchequer, or to the governor and company of the Bank of England, or to their respective officers, or any officer or servant acting under them respectively, in relation to any annuity by this Act placed under the management of the commissioners for the reduction of the national debt, or to any matter or thing required by any of the said recited Acts to be done by the Treasury, or by the said auditor, or by the said governor and company, shall and may be used and exercised and put in force for all the purposes of this Act, and for the more effectual carrying the provisions thereof into execution, by the said commissioners for the reduction of the national debt, or by any person acting under their authority, as fully to all intents and purposes, so far as the same are not altered by this Act, as if the same were severally re-enacted in this Act, and expressly given to the said commissioners.

19. FORGING REGISTER, CERTIFICATE, TRANSFERS, &c.; OR PERSONATION OF NOMINEE, &c.; FELONY.—If any person or persons shall forge, counterfeit, or alter, or shall cause or procure to be forged, counterfeited, or altered, or shall knowingly or wilfully act or assist in the forging, counterfeiting, or altering, any declaration, warrant, order, or other instrument, or any affidavit or affirmation required to be made by this Act, or by the commissioners for the reduction of the national debt, under any of the provisions of this Act, or under any authority given to them for that purpose; or shall forge, counterfeit, or alter, or shall cause and procure to be forged, counterfeited, or altered, or shall knowingly or wilfully act or assist in the forging, counterfeiting, or altering, any certificate or order of any officer of the commissioners for the reduction of the national debt, or the name or names of any person or persons in or to any transfer of any annuity, or in or to any certificate, order, warrant, or other instrument for the payment of money for the purchase of any annuity under the provisions of this Act, or in or to any transfer or acceptance of any such annuity in the books of the commissioners for the reduction of

the national debt, or in or to any receipt or discharge for any such annuity, or in or to any receipt or discharge for any payment or payments due or to become due thereon, or in or to any letter of attorney or other authority or instrument to authorize or purporting to authorize the transfer or acceptance of any annuities or any life annuity of whatsoever kind, or authorizing or purporting to authorize the receipt of any life annuity of whatsoever kind granted under any of the said recited Acts or this Act, or any payment or payments due or to become due thereon; or if any person or persons shall wilfully, falsely, and deceitfully personate any true and real nominee or nominees, or shall wilfully utter or deliver or produce to any person or persons acting under the authority of this Act any forged register or copy of register of any birth, baptism, or marriage, or any forged declaration, affidavit, or affirmation, knowing the same to be forged, counterfeited, or altered, with intent to defraud his Majesty, or with intent to defraud any person or persons whomsoever; then and in every such case all and every person and persons so offending, and being lawfully convicted thereof, shall be adjudged guilty of felony, . . .

S. 19 *in part rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).

20. Treasury may order issues of money for payment of Salaries, &c.—The Treasury may order and direct to be issued and paid, out of the fund upon which the establishment of the commissioners for the reduction of the national debt is chargeable, any sum or sums of money for the payment of salaries to officers and clerks acting in the execution of this Act, and for discharging such incidental expenses as shall necessarily attend the execution thereof, in such manner as the Treasury shall from time to time think fit and reasonable, and also for the payment of all such damages, costs, charges, and expenses as shall be recovered against or payable under the provisions of this Act by the comptroller general or assistant comptroller general of the said commissioners; which last-mentioned damages, costs, charges, and expenses shall be payable and paid out of any aids or supplies granted by Parliament, and applicable to any public service.

[*S.* **21** *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).]

CHAPTER LXV.

The Representation of the People (Scotland) Act, 1832 (*Short Titles Act*, 1896).

An Act to amend the Representation of the People in Scotland.[1]

[17th July 1832.]

[1] *This Act is rep.* 5 *&* 6 *Will.* 4, *c.* 78, *s.* 13, *in all cases in which its provisions are inconsistent with that Act, and in so far as is necessary to give effect to the true intent and meaning of that Act.*

Whereas the laws which regulate the election of members to serve in the Commons House of Parliament for Scotland are defective, whereby great inconveniences and abuses have been occasioned: And whereas it is expedient, and would be for the evident utility of the subjects within Scotland, that those defects should be remedied, and especially that members should be provided for places hitherto unrepresented, and the right of election extended to persons of property and intelligence, and that the mode of conducting elections should be better regulated and ordered.

[*S.* **1** *rep.* 51 *&* 52 *Vict. c.* 57 (*S.L.R.*).]

2. Burghs of Peebles *and Selkirk* to be parts of Counties of Peebles *and Selkirk*; and Burgh of Rothsay to be part of Bute.—After the end of this present Parliament the burghs of Peebles *and Selkirk* . . . shall, in the matter of elections, be held to be parts of the counties of Peebles *and Selkirk* respectively; and in like manner the burgh of Rothsay in the county of Bute shall . . . be held, in the matter of elections, to be part of the county of Bute.

S. 2 *in part, and so far as relates to the burgh of Selkirk, rep.* 51 *&* 52 *Vict. c.* 57 (*S.L.R.*).

3. Enumeration in Schedules (A.) and (B.) of Counties to return Members severally or jointly—Properties to be part of County in which they are situate.—Of the . . . members hereafter to be returned to Parliament by the separate or combined shires of Scotland, one shall always be returned by each of the separate shires or parts of shires enumerated in the schedule (A.) hereunto annexed, and one by each two of the combined shires or parts of shires enumerated and described in schedule (B.)

hereunto annexed: Provided always, that all properties lying locally within the limits of any county or shire, though hitherto constituting part of some other county, shall, for the purposes of this Act, be held to be part of the county within which they are locally included.

S. 3 *in part rep.* 51 & 52 *Vict. c.* 57 (*S.L.R.*).

4. Enumeration in Schedules (*C.*), (D.), and (E.) of Burghs and Districts of Burghs to return Members severally or jointly.—Of the . . . members to be returned for the several or combined cities, burghs, and towns of Scotland, *two shall always be returned by each of the separate cities, burghs, and towns enumerated and described in Schedule* (*C.*) *hereunto annexed*, one by each of the separate cities, burghs, and towns enumerated and described in schedule (D.) hereunto annexed, and one by each of the districts or sets of cities, burghs, and towns enumerated and described in schedule (E.) hereunto annexed.

S. 4 *in part, and so far as it relates to schedule* (*C.*), *rep.* 51 & 52 *Vict. c.* 57 (*S.L.R.*).

5. Boundaries of Cities, Burghs, and Towns to be as set forth in Schedule (M.) —Rules for the construction of the Descriptions contained in Schedule (M.).—The limits and boundaries of all the cities, burghs, and towns enumerated in any of the above-mentioned schedules shall, for the purposes of this Act, be taken and held to be according to the description and specification of such limits and boundaries set forth and contained in schedule (M.) to this Act annexed; and all the properties within the boundaries therein specified shall hereafter, for the purposes of this Act, be parts of the said cities, burghs, and towns, and not of the adjoining or of any other county: Provided always, that the following rules shall be observed in the construction of the several descriptions of boundaries contained in the said schedule (M.) hereunto annexed; (that is to say,)

1.—That the words "northward," "southward," "eastward," "westward," shall respectively be understood to denote only the general direction in which any boundary proceeds from the point last described, and not that such boundary shall continue to proceed throughout in the same direction to the point next described:

2.—That when any road is mentioned merely by the name of the place to which such road leads, the principal road thither from the city, burgh, or town of which the boundary is in course of description shall be understood:

3.—That whenever a line is said to be drawn from, to, through, or in the direction of, or any distance to be measured from or to, an object, such line shall, in the absence of any direction to the contrary, be understood to be drawn from, to, through, or in the direction of, or such distance to be measured from or to, the centre of such object, as nearly as the centre thereof can be ascertained:

4.—That every building through which or through any part whereof any boundary hereby established shall pass shall be considered as within such boundary: Provided always, that if the boundaries of any two or more of the cities, burghs, and towns, whereof the boundaries are hereby described, shall pass through the same building or any part thereof, such building shall be considered as within that one of such two or more of the said cities, burghs, and towns which was before the passing of this Act entitled to return members or a member to serve in Parliament; or if neither or more than one of such two or more of the said cities, burghs, and towns shall have been so entitled, then within that one of them whereof the area as hereby established is the smallest:

5.—That whenever any boundary by this Act established is said to pass, or any distance to be measured, along any street, road, lane, or loaning, or up, down, or along any river, stream, canal, or burn, the middle (as nearly as the same can be ascertained) of such street, road, lane, loaning, river, stream, canal, or burn shall be understood:

6.—That the middle of any street, road, or lane shall be understood as the middle of the carriageway along the same:

7.—That when any boundary by this Act established is said to proceed, or any distance to be measured, along a street, road, or lane, or up, down, or along a river, from or to an object, such boundary shall be understood to proceed, or such distance to be measured (as the case may be), from or to that point in

the middle of such road, lane, or river from which the shortest line would be drawn to the centre of such object, as nearly as the centre thereof can be ascertained:

8.—That the point at which any wall, march, boundary, street, road, lane, loaning, avenue, railway, walk, path, river, stream, canal, or burn is said to meet, join, cross, reach, or leave any march, boundary, street, road, lane, loaning, avenue, railway, walk, river, stream, canal, or burn, shall be understood as that point at which a line passing along the middle of the march, boundary, street, road, lane, loaning, avenue, railway, walk, river, stream, canal, or burn so met, joined, crossed, reached, or left, would be intersected by a line drawn along the middle of the wall, march, boundary, street, road, lane, loaning, avenue, railway, walk, path, river, stream, canal, or burn so meeting, joining, crossing, reaching, or leaving, if such line were prolonged sufficiently far; and that the point at which any burn or river joins any firth or the sea shall be understood as that point at which a line passing along the low-water mark of such firth or the sea would be cut by a line to be drawn along the middle of such burn or river, if such line were prolonged sufficiently far; and that the point at which a burn or feeder joins a loch shall be understood as that point at which a line drawn along the shore of such loch would be cut by a line drawn thereto along the middle of such burn or feeder:

9.—That when a line is said to be drawn to a road, lane, river, stream, or canal, such line shall be considered as prolonged to the middle of such road, lane, river, stream, or canal:

10.—That by the words "sea" and "shore" shall be understood the low-water mark:

11.—That if any deficiency shall be found to exist in the line of any boundary described in the said schedule to this Act annexed, by reason of the intervention of any space between any two immediately consecutive points, such deficiency shall be supplied by a straight line to be drawn from the one to the other of such two immediately consecutive points.

6. None hereafter to acquire Votes, except by Qualifications herein-after provided; but Freeholders now enrolled or entitled to be enrolled in Shires to be entitled to vote while they retain their Qualification.—No person shall acquire, by succession, purchase, gift, or otherwise, the right of voting for a member of Parliament, either in shires, or in cities, burghs, or towns, except by one or other of the qualifications herein-after prescribed and directed: Provided always, that all persons who at the passing of this Act shall be lawfully on the roll of freeholders of any shire in Scotland, or who shall then be entitled to be put on such roll, or who shall previous to the first day of March one thousand eight hundred and thirty-one have become the owners or superiors of lands affording the qualification for being so enrolled, shall, so long as they retain the necessary qualification on which they are now enrolled or are entitled to be enrolled as aforesaid, be entitled to be registered and to vote as herein-after directed in the election of a member for such shire.

7. Qualification of County Voters.—Every person, not subject to any legal incapacity, shall be entitled to be registered as herein-after directed, and thereafter to vote at any election for a shire in Scotland, who, when the sheriff proceeds to consider his claim for registration in the present or in any future year, shall have been, for a period of not less than six calendar months next previous to the last day of July in any year, the owner (whether he has made up his titles, or is infeft, or not,) of any lands, houses, feu duties, or other heritable subjects (except debts heritably secured) within the said shire; provided the subject or subjects on which he so claims shall be of the yearly value of ten pounds, and shall actually yield or be capable of yielding that value to the claimant, after deducting any feu duty, ground annual, or other consideration which he may be bound to pay or to give or account for as a condition of his right; provided he be, by himself, his tenants, vassals, or others, in possession of the said subjects, and be either himself in the actual occupation or in receipt of the profits and issues thereof to the extent above mentioned: Provided always, that where the whole profits and issues of any such subject do not arise annually, but at longer intervals, the worth and amount of such occasional profits shall be taken into computation in estimating the annual value: Provided also, that where any property which would entitle the owner to be registered and to vote as above shall come to any person, within the said period of six months,

by inheritance, marriage, marriage settlement, or mortis causa disposition, or by appointment to any place or office, such person shall be entitled to be registered on the first occasion of making up the lists of voters, as herein-after provided, next following such succession or acquisition.

8. Rule as to Life-renters and Fiars and Joint Owners; and as to Husbands voting in right of their Wives' Property.—In elections for shires, where two or more persons are interested in any subject to which a right of voting is for the first time attached by this Act, as life-renter and as fiar, the right of voting shall be in the life-renter and not in the fiar; and all co-proprietors or joint owners shall be entitled each to vote in respect of their joint property within the shire, provided the share or interest of each joint owner so claiming on such property is of the yearly value of ten pounds, as above specified, but not otherwise: Provided also, that husbands shall be entitled to vote in respect of property belonging to their wives, or owned or possessed by such husbands after the death of their wives by the courtesy of Scotland.

9. Tenants holding under Leases of a certain description entitled to vote for Counties—Rent payable in Grain or other Produce how to be valued.—Tenants in lands, houses, or other heritable subjects shall also be entitled to be registered, and to vote at elections for the shires in which the said heritable subjects are situated, provided each tenant (whether joint or several), when the sheriff proceeds to consider his claim for registration, shall, for a period of not less than twelve months next previous to the last day of July in any year, have held such subjects or tenements, whether in his personal possession or not, under a lease or leases, missive of lease, or other written title, for a period of not less than fifty-seven years (exclusive of breaks), at the option of the landlord, or for the life-time of the said tenant, where the clear yearly value of such tenant's interest, after paying the rent and any other consideration due by him for his said right, is not less than ten pounds, or for a period of not less than nineteen years where the clear yearly value of such tenant's interest is not less than fifty pounds, [[1] or where such tenant shall, for the foresaid period of twelve months, have been in the actual personal occupancy of any such subject, where the yearly rent is not less than fifty pounds, or where the tenant, whatever the rent may be, has truly paid for his interest in such subject a price, grassum, or consideration of not less than three hundred pounds:] Provided always, that where, in any of these cases, the rent is payable in whole or in part in grain, the value shall be estimated according to the average fiars of the counties in which the heritable subjects are situated for the three preceding years, and where payable in any other species of produce, according to the average market prices of the neighbourhood for the same period; and the said values being once so fixed at the time of registering or refusing to register shall be held as settled for the whole period of the lease: Provided also, that where the right to any such lease as would entitle the tenant to be registered and to vote as herein-before provided shall come to any person, within the preceding twelve calendar months above specified, by inheritance, marriage, marriage settlement, or mortis causa disposition, such person shall be entitled to be registered on the first occasion of making up the list of voters, as herein-after provided, next following such succession or acquisition: Provided also, that no sub-tenant or assignee to any sub-lease for fifty-seven or nineteen years shall be entitled to be registered or to vote in respect of his interest under such lease, unless he shall be in the actual occupation of the premises thereby set.

[1] *The words in brackets are rep.* 48 *Vict. c.* 3, *s.* 12, *except in so far as relates to the rights of persons saved by that Act.*

10. Right of voting for Burghs and Districts of Burghs no longer to be in Town Councils and Delegates, but in Individual Voters.—The members who are to be returned to serve in any future Parliament for any single city, town, or burgh, on which the right of returning a member or members is by this Act conferred, shall no longer be elected by the town councils of such cities, burghs, or towns, but directly by the several individuals on whom the right of electing such members to serve in Parliament is by this Act conferred; and where the election is by districts or sets of cities, burghs, or towns conjoined, the right of electing shall no longer be in the town councils or corporations of the said cities, burghs, or towns, or in delegates appointed by them, but in the individual voters on whom the right of election is by this Act conferred; and the member to serve in Parliament for any such district shall be returned according to the majority of individual votes given in the whole district.

11. Qualification of Voters in Cities, Burghs, and Towns—Qualification of Husbands in right of their Wives—Disqualification by receipt of Parochial Relief.—[[1] Every person, not subject to any legal incapacity, shall be entitled to be registered as herein-after directed, and to vote at elections for any of the cities, burghs, or towns, or districts of cities, burghs, or towns, herein-before mentioned, who, when the sheriff proceeds to consider his claim for registration, shall have been, for a period of not less than twelve calendar months next previous to the last day of July in any year, in the occupancy, either as proprietor, tenant, or life-renter, of any house, warehouse, counting-house, shop, or other building, within the limits of such city, burgh, or town, which, either separately or jointly with any other house, warehouse, counting-house, shop, or other building within the same limits, or with any land owned and occupied by him, or occupied under the same landlord, and also situate within the same limits, shall be of the yearly value of ten pounds: Provided always, that the claimant shall have paid, on or before the twentieth day of July in any year, all assessed taxes which shall have become payable by him in respect of such premises previously to the sixth day of April then next preceding:] Provided also, that no such person shall be entitled to be registered or to vote in the present or any future year, unless he shall have resided for six calendar months next previous to the last day of July in any year within such city, burgh, or town, or within seven statute miles of some part thereof: Provided also, that persons so resident shall be entitled to be registered and to vote if they are the true owners of such premises as are herein-before mentioned within such city, burgh, or town, of the yearly value of ten pounds or upwards, although they should not occupy any premises within its limits, or although the premises actually occupied by them should be of less yearly value than ten pounds; and that the husbands of such owners shall be entitled to vote, either in the lifetime of their wives, or after their death, if then holding such property by the courtesy of Scotland: Provided also, that no person shall be entitled to be registered or to vote for any city, burgh, or town who shall have been in the receipt of parochial relief within twelve calendar months next previous to the last day of July in any year.

[1] *The words in brackets are rep.* 48 *Vict. c.* 3, *s.* 12, *except in so far as relates to the rights of persons saved by that Act, and except in so far as the enactments repealed are made applicable by that Act to any franchise thereby enacted.*

12. Provision as to Premises occupied in succession, and as to Joint Occupants.—The premises in respect of which any person shall be deemed entitled to be registered, and to vote in the election for any city, burgh, or town, or district, shall not be required to have been the same premises for the whole twelve months of his occupancy, but may be different premises (but always of the requisite value) occupied in succession by such person; provided always, that such person shall have paid all the assessed taxes legally exigible from him in respect of all such premises; and that where such premises shall be of the yearly value of twenty pounds or upwards, and shall be jointly occupied by more than one person, each of such joint occupiers shall be entitled to be registered, and to vote, provided his share and interest in the same shall be of the yearly value of ten pounds or upwards.

13. Proviso as to certain Parishes; and as to Orkney and Shetland.— . . . Provided always, that the parishes of Tulliallan, Culross, and Logie in the county of Perth, and the parish of Alva in the county of Stirling, shall, for the purposes of this Act, be held to form parts of the county of Clackmannan; and the parishes of Muckhart and Fossoway in the county of Perth shall, for the purposes of this Act, be held to form parts of the county of Kinross; and all claims and objections and titles relating to properties situate in any of these parishes shall be delivered or transmitted to the sheriff clerks of Clackmannan and Kinross respectively; and that all claims, objections, and titles relating to properties in the several districts of Orkney and Shetland shall be delivered or transmitted to the sheriff clerks of Orkney and of Shetland respectively.

S. 13 *in part rep.* 24 *&* 25 *Vict. c.* 83, *s.* 3.

[*Ss.* **14–22** *rep.* 19 *&* 20 *Vict. c.* 58, *s.* 1; 24 *&* 25 *Vict. c.* 83, *s.* 3. *S.* **23** *rep.* 54 *&* 55 *Vict. c.* 67 (*S.L.R.*). *Ss.* **24–26** *rep.* 35 *&* 36 *Vict. c.* 33, *s.* 32 (*temp.*).]

27. Sheriffs shall divide their Counties into Districts for Polling, and appoint Polling Places—Town Clerks shall divide Cities and Burghs into

Districts and appoint Polling Places—Proviso as to certain Burghs—Polling Booths to be provided at contested Elections—Polls to be taken under superintendence of Sheriffs, or Substitutes appointed by them.—Within three months after the passing of this Act each sheriff shall divide his county into convenient districts for polling, following, as nearly as possible, the boundaries of parishes, baronies, or other known subdivisions, and shall appoint a particular polling place for each such district, which place shall be selected so as to be most accessible to the voters in the district; and such polling places . . . shall be so arranged as that no more than six hundred persons or thereabouts shall poll at any election at any one place; and each town clerk shall, in like manner, appoint one polling place in every city, burgh, or town of which he is clerk, in which the number of voters does not exceed six hundred or thereabouts, and shall, wherever the number of registered voters in any such city, burgh, or town shall exceed six hundred or thereby, divide the said city, burgh, or town into convenient districts, and appoint a convenient polling place in each such district, so as that no more than about six hundred persons shall poll at any election at any such place; and each sheriff clerk shall, within fourteen days after the sheriff has so divided his county into districts for polling, make up a distinct list of the said districts and the polling place appointed in each, and shall cause copies of the said lists to be affixed to the doors of all the country parish churches in his county; and each town clerk shall, within the same period, affix lists of the polling place or polling places within his burgh to all the church doors within the same; . . . Provided always, that with respect to the contiguous burghs of Anstruther East, Anstruther West, and Kilrenny, the town clerk of Anstruther East shall appoint one polling place within the said burgh of Anstruther East for the whole of the said three burghs, which place shall be notified in manner herein provided, and all the voters in the said three burghs shall poll at the polling place so appointed; and at any contested election the sheriff shall, if required by any of the candidates, direct two or more booths, or halls, rooms, or other places for polling, to be provided at each polling place; and all polls shall be taken, both at elections for shires, and for cities, burghs, and towns under the superintendence of the sheriff, or of a substitute or substitutes named by him, which substitutes the sheriff is hereby empowered to name at his own discretion, without observing the forms necessary in the appointment of ordinary substitutes receiving salaries; . . . . . .

S. 27 *in part rep.* 16 *&* 17 *Vict. c.* 28, *s.* 1; *and* 35 *&* 36 *Vict. c.* 33, *s.* 32 (*temp.*).

28. Writs for Elections to be addressed to Sheriffs, who shall endorse the day of receipt thereon.—Writs for the election of members to serve for shires, or for any city, burgh, or town, entitled to send a member or members for itself, shall be directed as heretofore to the sheriff of the shire; and where the election is for a district of cities, burghs, or towns, a writ shall be directed to the sheriff specified in schedule (L.) hereunto annexed, and shall be proclaimed, as herein-after directed, at the town specified in the said schedule (L.) for each of the said districts respectively; and each sheriff shall endorse on the back of the writ the day on which he received it, ...

S. 28 *in part rep.* 35 *&* 36 *Vict. c.* 33, *s.* 32 (*temp.*).

[*S.* **29** *rep.* 54 *&* 55 *Vict. c.* 67 (*S.L.R.*).]

30. Order of proceedings at Elections for Cities, Burghs, and Towns—[*Provisions as to proclamation of Writ and nomination of Candidates*]. . . . *If more candidates shall be proposed than there are vacancies to be filled up, and a poll shall be demanded, the proceedings shall be adjourned for not more than three free days, exclusive of Saturdays and Sundays: Provided always, that* [*Rep.* 54 *&* 55 *Vict. c.* 67 (*S.L.R.*)] in the district including the town of Kirkwall in Orkney the adjournment may be made for any period not exceeding seven free days; . . . . . .

S. 30 *in part rep.* 35 *&* 36 *Vict. c.* 33, *s.* 32 (*temp.*), *and* 54 *&* 55 *Vict. c.* 67 (*S.L.R.*).

31. Extension of time for return of Writ for the election of a Member for Orkney and Shetland.—And in respect of the remote situation of certain parts of the county of Orkney and Shetland, and the occasional difficulty of communication therewith, be it enacted that the sheriff of Orkney to whom the writ for the election of a member for the said county shall be addressed at Kirkwall shall, within twenty four hours after receiving the same, issue a precept to the sheriff substitute in Shetland, fixing a day for the election for the said county, which day shall not be less than twelve nor more than sixteen days after that on which the writ was received, and shall forward

or transmit the said precept, with the least possible delay, directly to the said sheriff substitute in Shetland, who, immediately on receipt thereof, shall announce the day of election by notices on the church doors; and if on the day of election more candidates than one shall be put in nomination and a poll shall be demanded, the sheriff shall then adjourn the proceedings for a period of not less than ten or more than fourteen days, and shall within twenty-four hours dispatch notice of this adjournment to the sheriff substitute of Shetland, as in the case above provided for; and the polling shall commence accordingly at the different polling places in both parts of the county on the day to which the proceedings are adjourned, and shall proceed as herein-after directed, as in other cases of polling.

[*S.* **32** (*as to polling and custody of poll books*) *and s.* **33** *rep.* 35 *&* 36 *Vict. c.* 33, *s.* 32 (*temp.*). *S.* **34** *rep.* 54 *&* 55 *Vict. c.* 67 (*S.L.R.*).]

35. Property within a Burgh not to confer a Vote for the County; nor Property not within a Burgh a Vote for that Burgh.—No person not now on the roll of freeholders shall be admitted to claim or to vote at the election for any shire in respect of any subject situate within the limits of any city, burgh, or town entitled to send or to contribute towards sending a member to Parliament; nor shall any person be admitted to claim or to vote in the election for any city, town, or burgh in respect of any subject not situate within the limits of the said city, town, or burgh.

36. Disqualification of Sheriff, &c. to Vote or be elected, &c.—No sheriff shall be entitled to vote at any election for any member of Parliament to be holden within the county or combined counties of which he shall be sheriff; and no sheriff substitute, and no sheriff clerk, or deputy sheriff clerk, shall be entitled to vote or to be elected at any election for a member to serve in Parliament for the shire of which he is the sheriff substitute or sheriff clerk; and no town clerk or depute town clerk shall be entitled to vote or to be elected for the city, burgh, town, or district in which he is such clerk; and no sheriff substitute, sheriff clerk, or town clerk shall, directly or indirectly, act as an agent for any candidate in any matter connected with or preparatory to any election for the county or burgh respectively in which such persons shall be respectively sheriff substitute, sheriff clerk, or town clerk.

37. Eldest Sons of Scotch Peers may vote and be elected—County Members need not be qualified as Electors or hold Superiorities.—The eldest sons of Scotch peers shall be entitled to be registered and to vote at all elections for members of Parliament for Scotland, and shall also be entitled, though not so registered, to be elected to serve as such members for any county, city, burgh, or town, or district of burghs, in Scotland; and no member for any county in Scotland shall be required to be qualified as an elector or to hold any superiority within such county.

38. Penalty on Officers for Breach of Duty.—If any sheriff, sheriff substitute, sheriff clerk, town clerk, or any person whatsoever shall wilfully contravene or disobey the provisions of this Act, or any of them, with respect to any matter or thing which such sheriff, sheriff substitute, sheriff clerk, town clerk, or other person is hereby required to do, he shall for such his offence be liable to be sued in the Court of Session by any registered voter, candidate, member actually returned, or other party aggrieved, for the penal sum of five hundred pounds; and the jury before whom such action shall be tried may find their verdict for the full sum of five hundred pounds, or for any less sum which the said jury shall think it just that such party defender should pay to such party pursuer; and the defender in such action being convicted shall pay such penal sum so awarded, with full costs of suit, to the party who may sue for the same, without prejudice, however, to the right of any party aggrieved by the misconduct of any sheriff as returning officer to recover such damages for a false return as he may be entitled to at common law or by virtue of any statute now in force: Provided always, that every such action shall be raised within four calendar months next after the cause of action has arisen, and that notice in writing shall be given to the defender at least one month before the raising of any such action, signed by the party raising such action, or his agent, and setting forth the place of abode of the party signing the same: Provided also, that any such defender against whom any judgment shall have been recovered in any such action shall be allowed to plead such judgment as a bar to any other action which may be brought against him for the same matter or thing, and such other action being thereupon dismissed, such defender shall recover his full costs thereof.

[*S.* **39** *rep.* 35 *&* 36 *Vict. c.* 33, *s.* 32 (*temp.*).]

40. Certain Exchequer Allowances to Sheriffs continued—Expenses of Booths, Clerks, &c. to be paid by Candidates—Person proposing a Candidate without his consent, liable to his share of Expenses.—The monies which are now in use to be allowed to the sheriffs in their accounts with the Exchequer for executing writs for elections shall continue to be allowed to them on such accounts; and all halls, rooms, booths, or other places hired, constructed, or prepared for taking the polls shall be so hired, constructed, or prepared by contract with the candidates, or, if they cannot agree, by the sheriff clerk, at their joint and equal expense: Provided always, that the expense of such hiring or construction at any one polling place for a county shall not exceed the sum of thirty pounds, nor the sum of twenty pounds at any one polling place in any city, burgh, or town; and the candidates shall further be bound to pay and contribute among them to each poll clerk one guinea per day, and in like manner to contribute and pay a certain fee to each sheriff or sheriff substitute for superintending the polls, the amount of which fee shall in no case exceed the sum of three guineas per day for each such sheriff or substitute; and the candidates, in all cases where a poll has been demanded, shall in like manner be bound to defray the necessary expenses incurred by the sheriff or sheriff clerks or town clerks in the transmission of precepts, intimations, poll books, or other communications required or enjoined by this Act; and if any person shall be proposed as a candidate without his consent, the person so proposing him shall be liable to defray his share of all these expenses in like manner as if he had been a candidate himself.

[*S.* **41** *rep.* 54 *&* 55 *Vict. c.* 67 (*S.L.R.*).]

42. Substitute may act where Sheriff under Disability—Assistant Sheriffs, &c. may be appointed for registration purposes in certain Counties.—When any sheriff who is herein-before required to examine and decide on the claims for registration within his county, or to whom any writ for election is directed, shall be incapacitated from acting by sickness or unavoidable absence, one of his ordinary substitutes may act in his stead, provided he hold a substitution specially authorizing him to do so: Provided also, that if the sheriffs of the counties of Edinburgh, Lanark, Fife, Forfar, Aberdeen, Perth, Ayr, Inverness, Renfrew, or Orkney and Shetland, or any of them, shall represent to the lord president of the Court of Session, that, by reason of the great number of claims of registration presented or likely to be presented in such counties, it will be impracticable for them, without assistance, to dispose of such claims within the period limited by this Act, then and in that case it shall be competent to the said lord president, being satisfied of the correctness of such representation, and he is hereby required, to nominate and appoint one or more other sheriffs or advocates of at least four years standing to assist in disposing of the said claims within the said counties or any of them; and all judgments pronounced by the said assistant sheriffs or advocates shall be liable to be appealed from as if they had been pronounced by the sheriff of the county.

[*S.* **43** *rep.* 35 *&* 36 *Vict. c.* 33, *s.* 32 (*temp.*). *S.* **44** *rep.* 53 *&* 54 *Vict. c.* 33 (*S.L.R.*).]

45. Functions of Meetings of Freeholders transferred to Commissioners of Supply.—All powers, duties, and functions now vested in or exigible from any meeting of freeholders, by any law or statute in force at the dissolution of this present Parliament, shall thereafter be transferred to and vested in the said commissioners of supply, who shall exercise and discharge the same at their regular meetings as fully and effectually as the said meetings of freeholders might previously have exercised or discharged them.

46. Meaning of certain words in this Act—Misnomers not to affect operation of Act—No Appeal to Sheriff from any act of Substitute.— . . . The words "town clerk" shall be held to include the words "town clerk depute": Provided also, that no misnomer or inaccurate description of any person or place in any writing made in the form of any schedule to this Act annexed, or in any list or register or notice made under authority of this Act, shall in any way prevent or abridge the operation of this Act, provided that such person or place shall be so designated in such writing, list, register, or notice as to be commonly understood: Provided also, that no appeal shall be competent to any sheriff from any thing which may be done by their substitutes in the execution of this Act.

S. 46 *in part rep.* 53 *&* 54 *Vict. c.* 33 (*S.L.R.*).

[*Ss.* **47, 48** *rep.* 35 *&* 36 *Vict. c.* 33, *s.* 32 (*temp.*).]

SCHEDULES to which the preceding Act refers.

SCHEDULE (A.)

COUNTIES to return One Member each.

. . . . . .
Argyle.
. . . . . .
Banff.
Bute.
Berwick.
Caithness.
Dumbarton.
Dumfries.
Edinburgh.
. . . . . .
Forfar.
Haddington.
Inverness.
Kincardine.
Kirkcudbright.
. . . . . .
Linlithgow.
Orkney and Shetland.
. . . . . .
Roxburgh.
. . . . . .
Stirling, exclusive of the parish of Alva, annexed to Kinross, &c. by schedule (B.).
Sutherland.
Wigton.

Sched. (*A.*) *in part rep.* 51 & 52 *Vict. c.* 57 (*S.L.R.*).

SCHEDULE (B.)

COMBINED COUNTIES, each Two to return One Member.

Elgin and Nairn.
Ross and Cromarty.
Clackmannan and Kinross, together with that part of Perthshire which constitutes the parishes of Tulliallan, Culross, and Muckhart, and the Perthshire portions of the parishes of Logie and Fossaway, and that part of the shire of Stirling which constitutes the parish of Alva.

[*Sched.* (*C.*) *rep.* 51 & 52 *Vict. c.* 57 (*S.L.R.*).]

SCHEDULE (D.)

TOWNS to return One Member each.

. . . . . .
Paisley.
. . . . . .
Greenock.
Perth.

Sched. (*D.*) *in part rep.* 51 & 52 *Vict. c.* 57 (*S.L.R.*).

SCHEDULE (E.)

COMBINED BURGHS and TOWNS, each Set or District jointly to return One Member.

1.		2.	
Kirkwall	Jointly.	Fortrose	Jointly.
Wick		Inverness	
Dornock		Nairn	
Dingwall		Forres	
Tain			
Cromarty			

3.		
Elgin		Jointly.
Cullen		
Banff		
Inverury		
Kintore		
Peterhead		
4.		
Inverbervie		Jointly.
Montrose		
Aberbrothwick		
Brechin		
Forfar		
5.		
Cupar		Jointly.
St. Andrew's		
Anstruther Easter		
Anstruther Wester		
Crail		
Kilrenny		
Pittenweem		
6.		
Dysart		Jointly.
Kirkaldy		
Kinghorn		
Burntisland		
7.		
Inverkeithing		Jointly.
Dunfermline		
Queensferry		
Culross		
Stirling		
8.		
Renfrew		Jointly.
Rutherglen		
Dumbarton		
Kilmarnock		
Port Glasgow		
. . . . .		
10.		
Leith		Jointly.
Portobello		
Musselburgh		
11.		
Linlithgow		Jointly.
Lanark		
Falkirk		
Airdrie		
Hamilton		
12.		
Ayr		Jointly.
Irvine		
Campbelltown		
Inverary		
Oban		
13.		
Dumfries		Jointly.
Sanquhar		
Annan		
Lochmaben		
Kirkcudbright		

Sched. (*E.*) *in part rep.* 51 & 52 *Vict. c.* 57 (*S.L.R.*).

[*Scheds.* (*F.*), (*G.*), *and* (*H.*) *rep.* 19 & 20 *Vict. c.* 58, *s.* 1; 24 & 25 *Vict. c.* 83, *s.* 3. *Sched.* (*I.*) *rep.* 24 & 25 *Vict. c.* 83, *s.* 45. *Sched.* (*K.*) *rep.* 35 & 36 *Vict. c.* 33, *s.* 32, (*temp.*).]

SCHEDULE (L.)

Towns where the Writ for Districts is to be proclaimed.	Sheriffs to whom the Writ is to be addressed.
Leith, for the district to which it belongs	Sheriff of Edinburgh.
Wick, for the district to which it belongs	Sheriff of Caithness.
Inverness, for the district to which it belongs	Sheriff of Inverness.
Elgin, for the district to which it belongs	Sheriff of Elgin and Moray
Montrose, for the district to which it belongs	Sheriff of Forfar.
Saint Andrew's, for the district to which it belongs	Sheriff of Fife.
Kirkaldy, for the district to which it belongs	Sheriff of Fife.
Stirling, for the district to which it belongs	Sheriff of Stirling.
Kilmarnock, for the district to which it belongs	Sheriff of Ayr.
. . . . .	. . . .
Dumfries, for the district to which it belongs	Sheriff of Dumfries.
. . . . .	. . . .
Ayr, for the district to which it belongs	Sheriff of Ayr.
Falkirk, for the district to which it belongs	Sheriff of Stirling.

Sched. (*L.*) *in part rep.* 51 & 52 *Vict. c.* 57 (*S.L.R.*).

SCHEDULE (M.)

TOWNS to return Two Members each.

EDINBURGH.	From a point on the road from Leith to Queensferry which is distant four hundred yards (measured along such road) to the west of the point at which the same meets the Inverleith road at the house called Golden Acre, in a straight line to the north-western corner of the enclosure of John Watson's institution; thence in a straight line to the second stone bridge, marked No. 2, on the Union canal; thence in a straight line to the point at which the western wall of the enclosure of the lunatic asylum at Morningside meets the Jordan or Pow burn; thence down the Jordan or Pow burn to a point which is distant one hundred and fifty yards (measured along such burn) below the arch over the same on the Carlisle road; thence in a straight line to the summit of Arthur's seat; thence in a straight line to the point at which the Feeder enters the western side of Lochend loch; thence in a straight line to the point at which Pilrig street joins Leith walk; thence along Pilrig street and the Bonnington road to the point at which the latter meets the road from Leith to Queensferry; thence along the road from Leith to Queensferry to the point first described.
GLASGOW.	From the point on the west of the town at which the river Kelvin joins the river Clyde, up the river Kelvin to a point which is distant one hundred and fifty yards (measured along the river Kelvin) above the point at which the same is met by the park wall which comes down thereto from Woodside road; thence in a straight line to a point on the Great canal which is distant one one hundred yards (measured along the Great canal) below Derry bridge; thence along the Great canal and the cut of junction to the bridge over the cut of junction on the Stirling road; thence, eastward, along the Low Garngad road to a point which is distant one hundred and fifty yards (measured along the Low Garngad road) to the east of the bridge over the Grimston burn; thence in a straight line to a point on the road to Edinburgh by Airdrie which is distant one hundred yards (measured along the said road to Edinburgh) to the east of the point at which the same is joined by the road to Edinburgh through the village of Westmuir; thence in a straight line to the point at which the river Clyde is joined by Harvie's dyke; thence down the river Clyde to the point at which the same is joined by the Polmadie burn; thence up the Polmadie burn to the point at which the same is joined by the Little Govan burn; thence up the Little Govan burn to the point at which the same is divided into two branches in coming down from Govan hill; thence in a straight line to the eastern extremity of the Butterbiggins road; thence along the Butterbiggins road, and in a line in continuation of the direction thereof, to the Kinninghouse burn; thence in a straight line to the Shiels bridge over the Paisley and Androssan canal; thence in a straight line to the point at which the river Clyde is joined by the Plantation burn; thence down the river Clyde to the point first described.

TOWNS to return One Member each.

	From the point, on the north-west of the town, at which the Scatter burn joins the river Don, down the river Don to the point at which the same joins the sea; thence along the sea shore to the point at which the river Dee joins the sea; thence up the river Dee to a point which is distant one hundred yards (measured along

ABERDEEN.

the river Dee) above the bridge of Dee; thence in a straight line to the point at which the march between the parishes of Old Machar and Banchory Davenick crosses the Old-Dee-side road; thence, northward, along the march between the parishes of Old Machar and Banchory Davenick, and Old Machar and Newhills, to the point first described.

PAISLEY.

From the summit of Byres hill, on the north-east of the town, in a straight line to the point near Knock hill at which the Renfrew road is joined by a road from Glasgow; thence in a straight line to the summit of Knock hill; thence in a straight line to the northern gable of the Moss toll house on the Greenock road; thence in a straight line in the direction of the chimney of Linwood cotton mill to the point at which such straight line cuts the Candren burn; thence up the Candren burn to the point at which the same is joined by the Braidiland burn at the bridge over the same on the Johnstone road; thence up the Braidiland burn to a point which is distant five hundred yards (measured along the Braidiland burn) above the said bridge; thence in a straight line to Meikleridge bridge over the Candren burn; thence in a straight line to the point at which the old Neilston road leaves the new Neilston road; thence in a straight line to the summit of Dykebar hill; thence in a straight line to a point which is one hundred yards due north-east of the summit of Bathgo hill; thence in a straight line to the point first described.

DUNDEE.

From the point, on the east of the town, at which the shore of the firth of Tay would be cut by a straight line to be drawn from the tower (in Fife) of Mr. Dalgleish of Scotscraig to the point at which the Stobsmuir road is joined by the old road by Stobsmuir and Clepington and the old Craigie road, in a straight line to the said point at which the Stobsmuir road is joined by the old road by Stobsmuir and Clepington and the old Craigie road; thence, westward, along the old road by Stobsmuir and Clepington to the point called Kings Cross, at which the several boundaries of the parishes of Dundee, Strathmartin, and Liff meet; thence in a straight line to a point on the Liff road which is distant twelve hundred yards (measured along the Liff road) to the west of the point at which the Newtyle road leaves the same; thence in a straight line drawn due south to the shore of the firth of Tay; thence along the shore of the firth of Tay to the point first described.

GREENOCK.

From the point, on the west of the town, at which the shore of the firth of Clyde is met by the march between the parishes of Greenock and Innerkip, up the said march to that point thereof which is nearest to the southern point of the ridge of Bow hill; thence in a straight line to the said point on Bow hill; thence in a straight line to the southern end of the upper east reservoir for supplying Greenock with water; thence in a straight line in the direction of the highest projecting point of Knocknair hill, to the point near Woodhead quarry, at which such straight line cuts the easternmost of the two rivulets which form the Lady burn; thence down such rivulet and the Lady burn to the point at which the same joins the firth of Clyde; thence along the shore of the firth of Clyde to the point first described.

From the north-western corner of the north inch, on the right bank of the river Tay, in a straight line to the bridge on the mill lead at the boot of Balhousie; thence in a straight line to the bridge on the Glasgow road over the Scouring burn; thence in a straight line to the southern corner of the water reservoir of the depôt; thence in a straight line to the southern corner of the Friarton pier on the river Tay; thence across the river Tay (passing

PERTH. to the south of the Friarton island) to the point at which the same is met by the boundary of the respective parishes of Kinfauns and Kinnoul; thence, northward, along the boundary of the parish of Kinfauns to the point at which the several boundaries of the properties of Kinfauns, Kinnoul, and Barnhill meet; thence in a straight line to the north-eastern corner of Lord Kinnoul's lodge, at the gate of approach to Kinnoul hill; thence in a straight line to the north-eastern corner of the enclosure of the lunatic asylum; thence in a straight line to the point at which the Annatty burn crosses the Blairgowrie road; thence down the Annatty burn to the point at which the same joins the river Tay; thence in a straight line to the point first described.

DISTRICTS to return One Member each.

1.—WICK DISTRICT.

CROMARTY. From Samuel's well, on the south-west of the town, in a straight line to the point at which the southern angle of the glebe meets the Inverness road; thence along the Inverness road to the point at which the same is met by the Den road; thence in a straight line to the Coal Heugh well; thence in a straight line in the direction of Clachmalloch rock to the point at which such straight line cuts the shore of the Cromarty firth; thence along the shore of the Cromarty firth to that point thereof which is nearest to Samuel's well; thence in a straight line to Samuel's well.

DINGWALL. From a point on the shore of the Cromarty firth which is distant one hundred yards (measured along the shore) to the south of the mouth of the canal, in a straight line to a point on the Inverness road which is distant five hundred yards (measured along the Inverness road) from the point (near the school house) at which the same is joined by another road; thence in a straight line to a point on the Knockbain burn which is distant four hundred and fifty yards (measured along the Knockbain burn) to the west of the point at which the same meets the main street of Dingwall; thence in a straight line to a point on the Drynie road which is distant one hundred yards (measured along the Drynie road) from the point at which the same leaves the new Strathpeffer road; thence in a straight line drawn due east, to the shore of the Cromarty firth; thence along the shore of the Cromarty firth to the point first described.

DORNOCH. From the rock called Craig Carnaig, in a straight line to St. Michael's well, close by the road to the Little Ferry; thence in a straight line to the point at which the road to the mound of Fleet leaves the road to Bonar bridge; thence in a straight line to the point at which the Black burn joins the Dornoch Firth; thence along the shore of the Dornoch Firth to Craig Carnaig.

WICK DISTRICT. From a point on the sea shore which is distant five hundred yards (measured along the shore) to the north-east of the north-eastern angle of Cromwell's fort, in a straight line to a point on the Carness road which is

Kirkwall.	distant seven hundred yards (measured along the Carness road) to the east of the point at which the same leaves the Birston road; thence in a straight line to a point on the Holm road which is distant three hundred yards (measured along the Holm road) to the south of the point at which the same leaves the Deerness road; thence in a straight line to a point on the Scapa road which is distant four hundred yards (measured along the Scapa road) to the south of the point at which the same leaves the Stromness road; thence in a straight line to the western end of the Air embankment; thence along the Air embankment, and along the sea shore, to the point first described.
Tain.	From St. Mary's well, on the north-west of the town, in a straight line through the Raven's well to a point five hundred yards beyond the same; thence in a straight line, drawn due south-east, to the Scotsburn road; thence in a straight line, drawn due east, to the Inverness road; thence in a straight line, drawn due north-east, to the river of Tain; thence down the river of Tain to the point at which the same joins the sea; thence along the sea shore to St. Mary's well.
Wick.	From the point, on the north-east of the town, at which the Papigoe burn joins the sea, in a straight line to a point on the Huna road which is distant two hundred and fifty yards (measured along the Huna road) to the north of the point at which the same leaves the Kettleburn road; thence in a straight line to the north-western corner of the Glebe; thence in a straight line to the point at which the Leutskerry burn joins the river Wick; thence up the Leutskerry burn to the point at which the same meets the Thurso road; thence in a straight line to the point at which the Inverness road would be cut by a straight line to be drawn thereto due west from the rock called "The Old Man of Wick"; thence in a straight line to the Old Man of Wick; thence along the sea shore to the point first described.

2.—INVERNESS DISTRICT.

Forres.	From Sueno's Stone, on the north-east of the town, in a straight line to the point at which two roads meet at the north-eastern corner of that part of the property of the burgh of Forres which is called "The Cluny Hills"; thence, southward, along the boundary of the property of the burgh to the point at which the same meets the Rafford road; thence in a straight line to a point on the Altyre road which is distant fifty yards (measured along the Altyre road) to the south of the point at which the same leaves a road to the mills of Burdsyards; thence in a straight line to a point on the Nairn road which is distant five hundred yards (measured along the Nairn road) to the west of the bridge of Forres; thence in a straight line to a point on the burn of Forres which is distant four hundred yards (measured along the burn of Forres) below the Lee bridge; thence in a straight line to Sueno's Stone.

Fortrose.	From a point on the shore of the Moray firth which is distant two hundred yards (measured along the shore) to the west of the pier of Fortrose, in a straight line to St. Boniface's well; thence in a straight line to the point at which the Rosemarkie burn would be cut by a straight line to be drawn thereto due north-east from St. Boniface's well; thence in a straight line to the rock called the Lady's Bathing House; thence along the shore of the Moray firth to the point first described.	
Inverness.	From the Clachnaharry pier in a straight line to the point at which the Caledonian canal would be cut by a straight line to be drawn from the Clachnaharry pier to the southern extremity of the Upper Ness island; thence in a straight line to a point which is two hundred and fifty yards due west of the point at which the Altna Skiah burn joins the river Ness; thence in a straight line to the point at which the Altna Skiah burn joins the river Ness; thence up the Altna Skiah burn to a point which is distant three hundred and fifty yards (measured along the Altna Skiah burn) above the bridge over the same on the road to fort Augustus; thence in a straight line to the point at which the road from Muirfield to King's mills leaves the old Edinburgh road; thence in a straight line, drawn due north, to the Nairn road; thence in a straight line to that point on the shore of the Moray firth which is due north of the northern angle of Cromwell's fort; thence along the shore of the Moray firth to the Clachnaharry pier.	Inverness District.
Nairn.	From the point, on the north-west of the town, at which the western march of the Town's Links meets the shore of the Moray firth, in a straight line to a point on the Inverness road which is distant one hundred yards (measured along the Inverness road) to the south of the point at which the road to the grove leaves the same; thence in a straight line to the sluice of the mill-dam of the Nairn mills; thence in a straight line to a point on the Forres road which is distant six hundred yards (measured along the Forres road) from the bridge of Nairn; thence in a straight line drawn due north to the shore of the Moray firth; thence along the shore of the Moray firth to the point first described.	

3.—ELGIN DISTRICT.

Banff.	From the rocks on the west of the town, called the Little Tumblers, in a straight line, drawn due south, to a point on the Gallow hill, eight hundred and fifty yards distant; thence in a straight line to the point at which the Colleonard road leaves the Sandyhills road; thence in a straight line to the bridge over the river Dovern leading from the town of Banff to Macduff; thence up the river Dovern to a point which is distant two hundred yards (measured along the river Dovern) above the said bridge; thence in a straight line to a point on the road from Macduff to Aberdeen which is distant two hundred yards (measured along such road)	

to the south of the point at which the same is crossed by the Deyhill road; thence in a straight line to the mineral well of Tarlair; thence along the shore of the Moray Firth to the Little Tumblers first described.

CULLEN. From the bridge over the burn of Cullen, on the Fochabers road, in a straight line to the point at which Slack's road meets the Seafield road; thence in a straight line to the point at which the Deskford road leaves the Banff road; thence in a straight line to the point at which the Loggie road would be cut by a straight line to be drawn thereto due south from the rock called the Maiden Paps; thence in a straight line to the Maiden Paps; thence along the sea shore to the point at which the same meets the burn of Cullen; thence up the burn of Cullen to the bridge over the same on the Fochabers road.

ELGIN. From the bridge on the Fochabers road over the Tayack burn, up the Tayack burn, to the point at which the same would be cut by a straight line to be drawn thereto due east from Palmer Cross bridge; thence in a straight line to Palmer Cross bridge; thence in a straight line to the point at which the river Lossie would be cut by a straight line to be drawn from Palmer Cross bridge to Sheriff mill bridge; thence down the river Lossie to the bridge over the same on the road from Old mills to Quarry wood; thence along the road from Old mills to Quarry wood to the point at which the same joins the road by Morristown to Lossiemouth; thence down the road by Morristown to Lossiemouth to the point at which the same meets (at the cross of Bishop mill) another road to Lossiemouth; thence in a straight line to the bridge first described. ELGIN DISTRICT.

INVERURY. From the bridge over the river Ury at the mill of Keith-hall, in a straight line through the fifteenth mile stone on the Aberdeen road, to a point four hundred yards beyond the same; thence in a straight line to the point at which the road to Howford leaves the Huntly road; thence in a straight line to the upper ford of Howford on the river Ury; thence down the river Ury to the bridge first described.

KINTORE. From the point, on the south-east of the town, at which the burn of Tuach joins the river Don, up the burn of Tuach to the point at which the same is joined by the Torry burn; thence up the Torry burn to the bridge over the same on the Aberdeen road; thence in a straight line to the point at which the Hallforest road leaves the road to the Sheepcotes; thence in a straight line to the bridge over the Aberdeenshire canal near the farm of Tilty; thence in a straight line to the point of the island in the lands of Balbithan, near the glebe; thence along the river Don, taking the northernmost branch thereof at the points at which the same is divided into two branches, to the point first described.

From the north-western angle of the salmon house at the mouth of the river Ugie, and on the north-west of the town, in a straight line to the point near Clarke hill at which the old Kinmundy road is joined by a road leading therefrom into the Auchtygall road;

PETERHEAD.	thence along the road so leading into the Auchtygall road to the point at which the same joins the Auchtygall road; thence eastward along the Auchtygall road, and in a line in continuation of the direction thereof, to the sea shore; thence along the sea shore to that point thereof which is nearest to the point first described; thence in a straight line to the point first described.

4.—MONTROSE DISTRICT.

ABERBROTHWICK.	From the point at which the sea shore would be cut by a straight line to be drawn from the Bell Rock light house to the point, near Timmer green, at which the road to Hospital field leaves the Arbirlot road, along the said straight line to the said point at which the road to Hospital field leaves the Arbirlot road; thence, northward, along the Arbirlot road to the point at which the same is met by a road leading thereto from the Forfar road; thence in a straight line to a point on the Forfar road which is distant one hundred and fifty yards along the Forfar road to the north of the first mile stone from Aberbrothwick, at the old toll house; thence in a straight line to the bridge over the feeder of the Tarry burn on the Montrose road; thence along the said feeder to the point at which the same reaches the spring at Old Tarry; thence down the Tarry burn to the point at which the same joins the sea; thence along the sea shore to the point first described.
BRECHIN.	From the point, on the south of the town, at which the Skinners burn joins the South Esk river, down the South Esk river to the west den of Leuchland; thence up the hollow of the west den of Leuchland, and up Barrie's burn, to the point, near the source of Barrie's burn, at which the several boundaries of the properties of Caldhame, Pitforthie, and Unthank meet; thence in a straight line, in a westerly direction, to the point at which the several boundaries of the properties of Maisondieu and Cookston and Mr Mitchell's land meet; thence, in a south-west direction, along the boundary of the Maisondieu property to the point at which the same meets the Menmuir road; thence in a straight line to the westernmost point at which the Skinners burn crosses the Forfar road; thence down the Skinners burn to the point first described.
FORFAR.	From the Inch-ma-coble stone on the southern bank of the loch of Forfar, in a straight line to the point at which the Orchard loan joins the Perth road; thence in a straight line through the point at which the Westfield loan joins the Dundee road to the Balminshanner march; thence in a straight line to the Blind well at the junction of the road from Forfar to Lower with the old Kirk road from Lower; thence in a straight line to the spring on the Arbroath road at the junction of the boundaries of Pitruchie and the Poors ground; thence in a straight line to the point at which the old road to Brechin leaves the east road to Carseburn;

MONTROSE DISTRICT.

thence in a straight line to the point at which the west road to Carseburn leaves the Hassockwell road; thence in a straight line to the point at which the new Kirriemuir road leaves the new Brechin road; thence in a straight line to the Inch-ma-coble stone.

INVERBERVIE. From the point, on the east of the town, at which the Bervie burn joins the sea, up the Bervie burn to the point at which the same is met by the boundary of the parish of Arbuthnot; thence, southward, along the boundary of the parish of Arbuthnot to the point (near Dendodrum) at which the same meets the boundary which separates the town lands from the property of Mr Farquhar; thence in a straight line to the point at which the several boundaries of the glebe land, the land of the towns muir, and the property of Mr. Farquhar, meet; thence in a straight line through the south-western corner of the old castle of Hall green to the sea shore; thence along the sea shore to the point first described.

MONTROSE. From the point, on the north-east of the town, at which the towns loaning meets the sea shore, westward, along the towns loaning, and in a line in continuation of the direction thereof, to the point at which such line cuts the Laurencekirk road; thence in a straight line to the bridge over the burn of Tayock on the Brechin road; thence down the channel of the burn of Tayock at low water to the point at which the same joins the South Esk river; thence down the South Esk river, including the Rossie island, to the point at which the same river joins the sea; thence along the sea shore to the point first described.

5.—ST. ANDREWS DISTRICT.

EASTER ANSTRUTHER. From the point at which the Dreel burn joins the Firth of Forth, up the Dreel burn, to the point at which the mill-dam of the mill of Anstruther branches off; thence in a straight line in the direction of the spire of Kilrenny church to the point at which such straight line cuts the Cunzie burn; thence in a straight line to the point at which the road leading to St. Andrews (being the march between the lands of Renny hill and the barony of Anstruther) leaves the turnpike road to Upper Kilrenny; thence in a straight line to the point at which the Cellardyke burn enters the Firth of Forth; thence along the shore of the Firth of Forth to the point first described.

WESTER ANSTRUTHER. From the rock called the Cuniger stone in a straight line to the point at which the Dreel burn crosses the road from Pittenweem to Grangemuir farm; thence down the Dreel burn to the point at which the same joins the Firth of Forth; thence along the shore of the Firth of the Cuniger stone.

From a point on the shore of the Firth of Forth which is distant five hundred yards (measured along the shore) to the south-west of the Almond rocks, in a straight line, drawn due north-west to the point at which such straight line cuts the road to Anstruther and Kilrenny; thence in a straight line to the point

Crail.	at which the St. Andrews road would be cut by a straight line to be drawn thereto from North Berwick law through the point last described; thence in a straight line to a point on the Craighead Road which is distant five hundred yards (measured along the Craighead road) to the north-east of the bridge on the same, over the Lammas Green burn; thence in a straight line in the direction of the north-easternmost point of the Rome rocks until it meets the shore of the Firth of Forth; thence along the shore of the Firth of Forth to the point first described.	
Cupar.	From a point on the southern branch of the river Eden which is distant four hundred yards (measured along such river) below the new bridge, in a straight line, through a point on the Dundee road which is distant two hundred and fifty yards (measured along the Dundee road) to the east of the milestone marked 0 miles from Cupar and 22 miles from Pettycur, to a point two hundred and fifty yards distant from the said point on the Dundee road; thence in a straight line to the north-western corner of the garden wall of Dalziel lodge on the old Dundee road; thence in a straight line to the bridge over the St. Mary's burn on the Newburgh road; thence in a straight line to the point at which the Ferrybank road would be cut by a straight line to be drawn from the Hopetoun monument to the Winter or Byewater sluice at the western end of Anderson's spinning mills; thence in a straight line to the said sluice; thence in a straight line to the milestone on the Edinburgh road marked 1 mile from Cupar and 21 miles from Pettycur; thence in a straight line to the point first described.	St. Andrews District.
Kilrenny.	From the point at which the Cellardykes burn joins the Firth of Forth in a straight line to the point at which the road leading to St. Andrews (being the march between the lands of Rennyhill and the barony of Anstruther) leaves the turnpike road from Anstruther to Upper Kilrenny; thence in a straight line to the Skeith stone; thence in a straight line to the point at which the Gelly burn meets the well of Spa burn; thence in a straight line to a point on the Crail road which is distant four hundred yards (measured along the Crail road) to the north-east of the bridge on the same over the Gelly burn; thence in a straight line to a point on the Gelly burn which is distant three hundred yards (measured along the Gelly burn) below the said bridge on the Crail road; thence down the Gelly burn to the point at which the same joins the Firth of Forth; thence along the shore of the Firth of Forth to the point first described.	
Pittenweem.	From a point on the south-west of the town on the sea shore, distant from the Sandy Craig six hundred yards (measured westwards along the sea shore), in a straight line drawn to a point on the Mires or Dreel burn six hundred yards (measured up the course thereof) above the point where it is crossed by the road to Carnbee and St. Andrews; thence down the Mires or Dreel burn to the point at which the same crosses the road to Grangemuir farm; thence in a straight line to the rock called the Cuniger stone;	

	thence along the shore of the Firth of Forth to the point first described.
St. Andrews.	From the point at which the Swilkin burn joins the sea, up the Swilkin burn, to a point which is distant three hundred yards (measured along the Swilkin burn) above the bridge over the same on the Cupar road; thence in a straight line through a point on the Kinghorn road which is distant four hundred yards (measured along the Kinghorn road) from the point at which the same leaves Argyle street, to the point at which such straight line cuts the Kinness burn; thence in a straight line to the bridge over the St. Nicholas burn on the Crail road; thence in a straight line, drawn due east, to the sea shore; thence along the sea shore to the point first described.

6.—KIRKALDY DISTRICT.

Burntisland.	From the northern extremity of the dam dyke of the Sea mills, in a straight line, drawn due north, to the road from Aberdour to Kirkaldy; thence in a straight line to a point on the road from Aberdour to Kirkaldy which is distant three hundred yards (measured along such road) to the east of the point at which the same is met by the road from Burntisland to Kinross; thence in a straight line, in the direction of the eastern extremity of Inchkeith, to the point at which such straight line cuts the shore of the Firth of Forth; thence along the shore of the Firth of Forth to the point first described.	
Dysart.	From the point, on the south of Pathhead, at which the East burn joins the Firth of Forth, up the East burn, to that point thereof which is nearest to the eastern angle of the engine house of the Dunniker colliery; thence in a straight line to the point at which the road from Parkhead to Mitchelstons farm meets the road from Gallatown to Dunniker; thence in a straight line to a point on the Cupar road which is distant three hundred and fifty yards (measured along the Cupar road) to the north-west of the point (in the street of Gallatown) at which the road from Gallatown to West Wemyss leaves the same; thence in a straight line to the cliff above the Pissing Mare well; thence along the shore of the Firth of Forth to the point first described.	
Kinghorn.	From the rock called Hoch-ma-toch in a straight line to the point at which the road to Kirkaldy from Burntisland joins the road to Kirkaldy from Pettycur; thence in a straight line to the outlet from the loch of Kinghorn called the Gullet sluice; thence in a straight line to the rock on the shore of the Firth of Forth above the well of Spa; thence in a straight line to the well of Spa; thence along the shore of the Firth of Forth to the rock Hoch-ma-toch.	Kirkaldy District.
	From the point, on the north-east of the town, at which the East burn joins the Firth of Forth, up the East burn to that point thereof which is nearest to the eastern angle of the engine house of the Dunniker collier thence in a straight line, in the direction	

Kirkaldy.	of the spire of Abbotshall church, to the point at which such straight line cuts a road from Kirkaldy to Raith and Auchtertool; thence along the said road to Raith and Auchtertool to the point (opposite Raith gate) at which the same is joined by the road from West bridge to Auchtertool; thence in a straight line to the western corner of the old quarry above the West mills of Linktown and on the left bank of the West burn; thence in a straight line to a point on the Kinghorn road which is distant five hundred yards (measured along the Kinghorn road) to the south of the point (in West Bridge town) at which the Queensferry road leaves the same; thence in a straight line in the direction of North Berwick law, to the point at which such straight line cuts the shore of the Firth of Forth; thence along the shore of the Firth of Forth to the point first described.

7.—STIRLING DISTRICT.

Culross.	From the point, close to the shore, at which the Dean burn crosses the high road to Kincardine, up the Dean burn to that point thereof which is nearest the ruins of the old church; thence in a straight line to the point at which the road to Dunfermline by the Abbey lodge leaves the road from Culross church to Kincardine; thence along the said road to Dunfermline to a point which is distant seven hundred yards (measured along such road) from the point last described; thence in a straight line, through the stone which marks the eastern extremity of the royalty of the burgh, to the shore of the Firth of Forth; thence along the shore of the Firth of Forth to the point first described.
Dunfermline.	From the point on the south of the town, near the southern end of St. Leonard's, at which the Queensferry road leaves the Burntisland road, in a straight line to the head of the mill-dam of the Brucefield spinning mills; thence in a straight line to the point at which the Townhill road is joined by a road from Headwell; thence in a straight line to a point on the Crieff road which is distant one hundred and fifty yards (measured along the Crieff road) to the north of the bridge on the same over the Blair Castle or Broomhill burn; thence in a straight line to the bridge over the Baldridge burn at Blackburn; thence in a straight line to the point at which the Elgin railway crosses the Carnack road; thence in a straight line to Urquhart bridge on the Stirling road; thence in a straight line to the bridge over the Spittal burn on the Limekilns road; thence in a straight line to the point first described.
Inverkeithing.	From the point, on the west of the town, at which the Seggs burn joins the sea, up the Seggs burn to a point which is distant one hundred yards (measured along the Seggs burn) above the bridge over the same on the Queensferry road; thence in a straight line to a point on the Dunfermline road which is distant three hundred yards (measured along the Dunfermline

road) from the point at which the same leaves the High street of Inverkeithing; thence in a straight line to the bridge over the Inverkeithing burn on the Perth road; thence in a straight line through the flag-staff near the East Ness to the sea shore; thence along the sea shore to the point first described. — Stirling District.

Queensferry. — From a point on the shore of the Firth of Forth which is distant three hundred yards (measured along the shore) to the east of the Newhalls pier, in a straight line, in a southerly direction, drawn from the easterly extremity of Inch Garvie, through the point last described, to a point which is one hundred yards beyond the middle of the Edinburgh road; thence in a straight line to the south-eastern corner of the reservoir; thence in a straight line to the Dovecote park well; thence in a straight line to the point at which the Echland burn crosses the road to Echland and Linlithgow; thence down the Echland burn to the point at which the same joins the Firth of Forth; thence along the shore of the Firth of Forth to the point first described.

Stirling. — From the point, on the east of the town, at which the town burn joins the river Forth, up the river Forth to the point at which the same is joined by the Kildean burn; thence up the Kildean burn to the point at which the same reaches the dam of the Kildean mill; thence in a straight line to the point, opposite the lodge of Christian bank, at which the road to Touch and Garthur leaves the road to Murray's hall; thence in a straight line to the point at which the road from Cambusbarron to St. Ninians is joined by a road from Newhouse and Torbrecks; thence in a straight line to a point on the old Glasgow road which is distant five hundred yards (measured along the Glasgow road) to the south of the point at which the Glasgow road leaves the Edinburgh road; thence in a straight line to a point on the Edinburgh road which is distant five hundred yards (measured along the Edinburgh road) to the south-east of the point at which the same leaves the Glasgow road; thence in a straight line, in the direction of Cambuskenneth abbey to the point at which such straight line cuts the Pelstream; thence along the Pelstream, and along the continuation thereof, called the Town burn, to a point which is distant five hundred yards (measured along the Town burn) to the south of the bridge over the same at Hadaway's carpet factory; thence in a straight line to the point first described.

8.—KILMARNOCK DISTRICT.

From the point, on the south-east of the town, at which the Gruggies burn joins the Firth of Clyde, up the Gruggies burn to the bridge on the road from Dumbarton to Glasgow; thence in a straight line, drawn due north-east, to the road from Bar Toll to Glasgow; thence, northward, along the road from Bar Toll to Glasgow to the point at which the same meets the Bonhill road; thence, northward, along the

Dumbarton.	Bonhill road to a point which is distant two hundred yards (measured along the Bonhill road) from the point last described; thence, westward, in a straight line to a point on the Helensburgh road which is distant two hundred and fifty yards (measured along the Helensburgh road) from the point at which the same leaves the Luss road; thence in a straight line, drawn due south-west, to the shore of the Firth of Clyde; thence along the shore of the Firth of Clyde to the point first described.	
Kilmarnock.	From the point, on the south of the town, at which Kilmarnock water joins the river Irvine, in a straight line to a point on the Irvine road which is distant three hundred and fifty yards (measured along the Irvine road) to the west of the point at which the same leaves Grange street; thence in a straight line to the point at which the road to Hill Head leaves the Kilmaurs road; thence in a straight line, through the summit of the Bonfire knowe, to the Kilmarnock water; thence in a straight line to the bridge over the Mill burn on the Mauchline road; thence down the Mill burn to the point at which the same joins the river Irvine; thence in a straight line to the Bells Land bridge on the road from Riccarton to Galston; thence in a straight line to the point called Witch knowe, at which two roads meet; thence in a straight line to the bridge over the Maxholm burn on the Ayr road; thence down the Maxholm burn to the point at which the same joins the river Irvine; thence down the river Irvine to the point first described.	
Renfrew.	From the Milburn bridge over the Pudzeoch burn on the Glasgow road, in a straight line to a point up the Pudzeoch burn which is distant three hundred yards in a straight line from the said bridge; thence in a straight line to a point on the Greenock road which is distant two hundred and fifty yards (measured along the Greenock road) from the point at which the same leaves the Paisley road; thence in a straight line to a point on the river Clyde which is distant three hundred yards (measured along the river Clyde) below the point at which the same is joined by the canal; thence along the river Clyde to the point at which the same is joined by the canal; thence along the canal to the point at which the same is joined by the Pudzeoch burn; then along the Pudzeoch burn to the bridge aforesaid.	Kilmarnock District.
Rutherglen.	From the point at which the river Clyde is joined by the Polmadie burn, up the river Clyde, to Dalmarnock bridge; thence in a straight line, through the point at which the road from Dalmarnock bridge to Muirkirk leaves the road from Dalmarnock bridge to Hamilton, to the point at which such straight line reaches the southern road from Rutherglen to Hamilton; thence in a straight line to a point in the Castlemilk road which is distant seven hundred yards (measured along the Castlemilk road) from the point at which the same joins the main street at Rutherglen; thence in a straight line to a point on the Newhouse road which is distant three hundred yards (measured along the Newhouse road) from the point at which the	

	same leaves the Hangingshaws road; thence in a straight line to the bridge over the Polmadie burn on the Glasgow road; thence down the Polmadie burn to the point first described.
Port Glasgow.	From the point on the shore, west of the town, where Devols burn enters the Firth of Clyde, up the said burn to the waterfall in Devols glen; thence in a straight line to a point in the mill-dam burn which is one thousand yards, measured along the same, above the point where it enters the Clyde; thence in a straight line to a point on the boundary between the parishes of Port Glasgow and Kilmalcolm which is distant eight hundred yards, measured along the said boundary, from the point where it meets the Clyde; thence down the said boundary to its termination on the shore; thence west along the shore to the point first described.

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10.—LEITH DISTRICT.

Leith.	From the point at which the shore of the Firth of Forth would be cut by a straight line to be drawn thereto from the spire of the Tron church in Edinburgh through the point at which the feeder joins the western side of Lochend loch, in a straight line to the said point at which the feeder joins the western side of Lochend loch; thence in a straight line to the point at which Pilrig street joins Leith walk; thence along Pilrig street and the Bonnington road to the point at which the latter joins the Queensferry road; thence, westward, along the Queensferry road to a point which is distant four hundred yards (measured along the Queensferry road) to the west of the point at which the same meets the Inverleith road at the house called Golden Acre; thence in a straight line to the point at which the Wardie burn joins the Firth of Forth; thence along the shore of the Firth of Forth to the point first described.	Leith District.
Musselburgh.	From the point at which the Magdalene burn joins the Firth of Forth, up the Magdalene burn, to a point which is distant fifty yards (measured along the Magdalene burn) above Magdalene bridge; thence in a straight line, in the direction of the spire of Inveresk church, to the point at which such straight line cuts the river Esk; thence in a straight line to a point in the road from Newbigging to Inveresk which is distant two hundred yards (measured along such road) to the south of the point (in the street of Newbigging) at which the same leaves the road from Newbigging to Haddington and Prestonpans; thence in a straight line through the seventh mile stone on the road from Edinburgh to Haddington to the Ravenshaugh burn; thence down the Ravenshaugh burn to the point at which the same joins the Firth of Forth; thence along the shore of the Firth of Forth to the point first described.	

Portobello.	From the fountain of Saltpans on the Musselburgh road, southward, in a straight line (in the direction of a straight line drawn from the east end of Inchkeith) to a point one hundred and fifty yards distant; thence in a straight line, in the direction of Nelson's monument on the Calton hill, to the point at which such straight line cuts the Duddingston road; thence northwards, along the Duddingston road to the point at which the same meets the Edinburgh road; thence in a straight line to the point at which the shore of the Firth of Forth would be cut by a straight line to be drawn thereto from the summit of Arthur's Seat through the point last described; thence along the shore of the Firth of Firth to the point first described.

11.—FALKIRK DISTRICT.

Airdrie.	From the bridge over the South burn on the Glasgow road, along the South burn, to a point which is distant five hundred yards (measured along the South burn) to the east of the said bridge; thence in a straight line to a point on the Gartlee road which is distant five hundred yards (measured along the Gartlee road) to the south of the point at which the same meets Graham street; thence in a straight line to a point on the high road from Carlisle to Stirling which is distant one hundred yards (measured along such road (to the south of the point at which the same meets the Edinburgh road; thence along the said road to Stirling to the bridge on the same over the North burn; thence in a straight line to a point on the road from North Bridge street to New Monkland church which is distant five hundred yards (measured along such road) to the north of the bridge on the same over the North burn; thence in a straight line to the bridge over the railway on the Kirkintulloch road near Windhall; thence in a straight lime to the bridge first described.
Falkirk.	From a point on the Edinburgh road which is distant four hundred yards (measured along the Edinburgh road) to the east of the bridge on the same over the east or meadow or Ladys Mill burn, in a straight line to the bridge on the Grangemouth road over the same burn; thence along the said burn to the point at which the same passes under the Forth and Clyde canal; thence, eastward, along the Forth and Clyde canal to the point at which the same meets the road to Dalderse House; thence, northward, along the road to Dalderse House to a point which is distant three hundred yards (measured along the road to Dalderse House) from the point last described; thence in a straight line to a point on the Alloa and Carron road which is distant two hundred yards (measured along the Alloa and Carron road) from the point at which the same meets St. Davids lane; thence along the Alloa and Carron road to the point at which the same meets St. Davids lane; thence along the road to Burnhouse to the point at which the same meets the West burn; thence in a straight line to the twenty-

fourth mile stone on the Stirling road; thence in a straight line to a point on the road by Burnhead and Gartcows to South Bantaskine which is distant one one hundred yards (measured along such road) to the south-west of the point at which the same is met by the West burn; thence in a straight line to the south-eastern corner of the Parkfoot washing green; thence in a straight line to the point first described.

From Covan burn bridge, on the road to Lanark, in a straight line to the point in the lower park wall of Hamilton palace where it meets the great south avenue of the said palace; thence, westward, along the said wall to a point in the same six hundred yards beyond the intersection of the Cambuslang and Glasgow road with the said wall; thence in a straight line to the bridge on the said road over Wellhall burn; thence up the said burn to the point where it is met by the March fence between the burgh and the lands of Over Auchingraymont; thence, southward, along the said fence to the point where it meets the road to Earnock; thence in a straight line, through a point on the road to Strathaven which is five hundred and twenty yards (measured along the said road) south of the Butterburn bridge, continued until it meets the upper park wall of Hamilton palace; thence, eastward, along the said park wall to the point where it meets the Covan burn; thence down the same to the point first described.

Falkirk District.

Hamilton.

From a point on the river Clyde which is distant one hundred and fifty yards (measured along the river Clyde) below the bridge over the same on the southern branch of the Glasgow road, in a straight line to a point on the old road to Carluke which is distant one hundred and fifty yards (measured along such old road) from the point at which the same leaves the Glasgow road; thence in a straight line to the point, near Mansfield, at which the Jerviswood road leaves the northern Edinburgh road; thence in a straight line to a point on the southern Edinburgh road which is distant one hundred yards (measured along such road) to the east of the eastern corner of Browns Square; thence in a straight line to the centre of the ruins of the parish church; thence in a straight line to a point on the river Clyde which is distant seven hundred and fifty yards (measured along the river Clyde) above the bridge over the same on the southern branch of the Glasgow road; thence down the river Clyde to the point first described.

Lanark.

From a point on the Union canal which is distant one hundred and fifty yards (measured along the Union canal) to the north-east of the aqueduct over the Edinburgh road, in a straight line to the point at which the burn adjoins the eastern end of Linlithgow loch; thence along the southern shore of Linlithgow loch to the point at which the same is joined by the burn which runs therefrom across the Borrostowness road; thence along the last-mentioned burn to the bridge over the same on the Borrostowness road; thence in a straight line to a point on the Falkirk road which is distant one hundred and fifty yards (measured along the Falkirk road) from the point at

Linlithgow.

which the Torphichen road leaves the same; thence in a straight line to the bridge marked No. 45, over the Union canal on the Bathgate road; thence in a straight line to the aqueduct over the Edinburgh road; thence along the Union canal to the point first described.

12.—AYR DISTRICT.

AYR.

From the end of the Mill-dam dyke on the right bank of the river Ayr, and on the east of the town, in a straight line to the Hawkhill bridge; thence along the road which passes the south-eastern side of the Newton muir, and in a line in continuation of the direction of such road, to the Half-mile burn; thence down the Half-mile burn to the point at which the same joins the firth of Clyde; thence along the shore of the firth of Clyde to the point at which the same is met by the road which runs thereto from the Holmstone toll bar, past the race course, and between the lands of Blackburn and Seafield; thence along the road last described to a point which is distant two hundred and sixty yards (measured along the same) to the east of the point at which the same crosses the old Maybole road; thence in a straight line to the point first described.

CAMPBELL TOWN.

From the point, on the south-east of the town, at which the Kilkerran burn joins the sea, up the Kilkerran burn to the point at which the same coming down from Bengoillan nearly forms a right angle in turning towards the sea; thence in a straight line to the summit of the hill called Barley Bannocks; thence in a straight line to the bridge over the Witch burn on the Southend road; thence in a straight line to the point at which the road to Knockscalbert leaves the Inverary West road; thence in a straight line to the first point of the rock on Balligreggan hill; thence in a straight line, in the direction of the summit of the island of Avarr, to the point at which such straight line cuts the Baraskomil burn; thence down the Baraskomil burn to the point at which the same joins the sea; thence along the sea shore to the point first described.

AYR DISTRICT.

INVERARY.

From the western angle of Point House, on the west of the town, in a straight line to a point which is distant three hundred yards due north of the same; thence in a straight line to the point at which the Dalmally road meets the upper or great avenue to Inverary castle; thence in a straight line to a point on the shore of loch Fine which is distant one hundred and fifty yards (measured along the shore) to the east of the north end of the pier; thence along the shore of loch Fine to that point thereof which is nearest to the point first described; thence in a straight line to the point first described.

From the flagstaff near the junction of the river Irvine with the sea (about one hundred yards south of the point where the pier head leaves the shore) in a straight line, through the stone at the western

Irvine.	corner of the March fence of the minister's glebe, to the river Alnwick; thence up the river Alnwick to a point which is distant two hundred and ninety-five yards (measured along the river Alnwick) above the bridge over the same, on the Kilmarnock road; thence in a straight line, in a north-westerly direction, to the point at which the burn called the Ministers Cast makes an angle in turning to the west; thence down "The Ministers Cast" to the point at which the same joins the river Irvine; thence down the river Irvine to that point thereof which is nearest to the flagstaff aforesaid; thence in a straight line to the flagstaff aforesaid.
Oban.	The space on the main land included within a circle described with a radius of one half mile from the point as a centre where the street leading to the old Inverary road meets the street along the shore.

13.—DUMFRIES DISTRICT.

Annan	From the point, on the north of the town, at which the Galla Bank burn joins the river Annan, in a straight line to a point on the Prestonfield road which is distant one hundred yards (measured along the Prestonfield road) from the point at which the same leaves the Prestonhall road; thence in a straight line to the point near New Dyke at which the Langholm road leaves the Carlisle road; thence in a straight line through the Blindpeat well to the river Annan; thence up the river Annan to the point first described.	
Dumfries	From the point, on the north of the town, at which the Townhead branch of the Edinburgh road joins the English street branch of the same road, in a straight line to the bridge over the Maryholm burn on the Lincluden road; thence in a straight line to a point on the Terregles road which is distant five hundred yards (measured along Terregles street and the Terregles road) from the point at which Terregles street meets Galloway street; thence in a straight line to the point at which the Castle Douglas road leaves the Dalbeaty road; thence in a straight line to the point at which the left bank of the river Nith is cut by a straight line drawn thereto due west from the Maidens Bower craig; thence along the last-mentioned straight line to the point at which the same cuts the Caerlavrock road; thence in a straight line to the point at which the road to Gillbrae leaves the road to Callside; thence in a straight line to a point which is distant one hundred yards due east from the point first described; thence in a straight line to the point first described.	
Kirkcudbright.	From the point, on the west of the town, at which the river Dee would be cut by a line to be drawn thereto parallel to the High street leading from the Market cross to Bar hill, from the point at which the new road to St. Mary's isle leaves the road to Dundrennan in a straight line through the point at which the road to St. Mary's isle leaves the road to Dundrennan to a point which is four hundred yards	Dumfries District.

beyond the same; thence in a straight line to a point which is seven hundred yards due east of the northern extremity of the Stirling Acres embankment; thence in a straight line to the northern extremity of the Stirling Acres embankment; thence down the river Dee to the point first described.

LOCHMABEN. From the point, on the north-east of the town, near Bogle-hole, at which a burn crosses the road to the bridge on Kennel water, in a straight line to a point on the bank of the Castle loch which is distant five hundred yards in a straight line to the south-east of the summit of the knoll of the old castle; thence in a straight line to the summit of the knoll of the old castle; thence in a straight line to a point on the Dumfries road which is distant five hundred yards (measured along the Dumfries road) to the west of the Town House; thence in a straight line to a point which is four hundred yards due west of the point first described; thence in a straight line to the point first described.

SANQUHAR. From the point on the south of the town, at which the Town-fit burn joins the river Nith, up the Town-fit burn to a point which is distant two hundred and fifty yards (measured along such burn) to the north of the point at which the same crosses the Dumfries road; thence in a straight line to the bridge over the Crawick burn on the Whitehill road; thence down the Crawick burn to the point at which the same joins the river Nith; thence along the river Nith to the point first described.

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Sched. (*M.*) *in part rep.* 51 & 52 *Vict. c.* 57 (*S.L.R.*).

CHAPTER LXVIII.

THE GAME (SCOTLAND) ACT, 1832 (*Short Titles Act*, 1896).

AN ACT for the more effectual Prevention of Trespasses upon Property by Persons in pursuit of Game in that part of Great Britain called Scotland. [17th July 1832.]

[*Preamble.*]

1. PENALTY ON PERSONS TRESPASSING IN THE DAY-TIME UPON LANDS IN SEARCH OF GAME, &C.—PENALTY FOR SO TRESPASSING IN DISGUISE, OR TO THE NUMBER OF FIVE TOGETHER—PROVISO.—If any person whatsoever shall commit any trespass by entering or being, in the day-time, upon any land, without leave of the proprietor, in search or pursuit of game, or of deer, roe, woodcocks, snipes, quails, landrails, wild ducks, or conies, such person shall, on being summarily convicted thereof before a justice of the peace, on proof on oath by one or more credible witness or witnesses, or confession of the offence, or upon other legal evidence, forfeit any pay such sum of money not exceeding two pounds, as to the justice shall seem meet, together with the costs of the conviction; and if any person having his face blackened, coloured, or otherwise disfigured for the purpose of disguise, or if any persons to the number of five or more together shall commit any trespass by entering or being, in the day-time, upon any land in search or pursuit of game, or of deer, roe, woodcocks, snipes, quails, landrails, wild ducks, or conies, each of such persons shall, on being summarily convicted thereof before a justice of the peace on proof on oath by one or more credible witness or witnesses, or confession

of the offence, or upon other legal evidence, forfeit and pay such sum of money, not exceeding five pounds, as to the said justice shall seem meet, together with the expenses of process: Provided always, that any person charged with any such trespass shall be at liberty to prove, by way of defence, any matter which would have been a defence to an action at law for such trespass.

2. SUCH TRESPASSERS MAY BE REQUIRED TO QUIT THE LAND, AND TO GIVE THEIR NAMES AND ABODES; AND IN CASE OF REFUSAL MAY BE ARRESTED—PENALTY—PARTY ARRESTED MUST BE DISCHARGED, UNLESS BROUGHT BEFORE A JUSTICE WITHIN 12 HOURS.—Where any person shall be trespassing on any land in the day-time, in search or pursuit of game, or woodcocks, snipes, quails, landrails, wild ducks, or conies, it shall be lawful for any person having the right of killing the game upon such land, or for the occupier of the land, or for any gamekeeper or servant of either of them, or for any person authorized by either of them, to require the person so trespassing forthwith to quit the land whereon he shall be so trespassing, and also to tell his christian name, surname, and place of abode; and in case such person shall, after being so required, offend by refusing to tell his real name or place of abode, or by giving such a general description of his place of abode as shall be illusory for the purpose of discovery, or by wilfully continuing or returning upon the land, it shall be lawful for the party so requiring as aforesaid, and also for any person acting by his order and in his aid, to apprehend such offender, and to convey him, or cause him to be conveyed, as soon as conveniently may be, before a justice of the peace; and such offender (whether so apprehended or not), upon being summarily convicted of any such offence before a justice of the peace, at the instance of the owner or occupier of such land, or of the procurator fiscal for the county, on proof on oath by one or more credible witness or witnesses, or confession of the offence, or upon other legal evidence, shall forfeit and pay such sum of money, not exceeding five pounds, as to the convicting justice shall seem meet, together with expenses of process: Provided always, that no person so apprehended shall on any pretence whatsoever be detained for a longer period than twelve hours from the time of his apprehension until he shall be brought before some justice of the peace; and that if he cannot, on account of the absence or distance of the residence of any such justice of the peace, or owing to any other reasonable cause, be brought before a justice of the peace within such twelve hours as aforesaid, then the person so apprehended shall be discharged at the end of that time, but may nevertheless be proceeded against for his offence by summons or warrant, according to the provisions herein-after mentioned, as if no such apprehension had taken place.

3. WHAT TO BE DEEMED DAY-TIME.—For the purposes of this Act the day-time shall be deemed to commence at the beginning of the last hour before sunrise, and to conclude at the expiration of the first hour after sunset.

4. THE ABOVE PROVISIONS AS TO TRESPASSERS NOT TO APPLY TO PERSONS HUNTING, &C.—Provided always, that the aforesaid provisions against trespassers shall not extend to any person hunting or coursing upon any lands with hounds or greyhounds, and being in fresh pursuit of any deer, hare, or fox already started upon any other land on which such person was entitled to hunt or course.

5. GAME MAY BE TAKEN FROM TRESPASSERS NOT DELIVERING UP THE SAME WHEN DEMANDED.—Where any person shall be found trespassing by day upon any land in search or pursuit of game, and shall then and there have in his possession any game, it shall be lawful for any person having the right of killing the game upon such land, or for the occupier of such land, or for any gamekeeper or servant of either of them, or for any other person authorized by either of them, or for any person acting by the order and in aid of any of the said several persons, to demand from such trespassers such game in his possession, and in case such trespasser shall not immediately deliver up such game, to seize and take the same from him, for the use of the person entitled to the game upon such land.

6. PENALTY ON TRESPASSERS ASSAULTING ANY ONE EXECUTING THIS ACT.—If any person being in the commission of a trespass shall assault or obstruct any person acting in the execution or in virtue of the powers and provisions of this Act, such person, on being convicted thereof before two justices of peace, on proof on oath by one or more credible witness or witnesses, or confession of the offence, or upon other legal evidence, shall forfeit and pay any sum not exceeding five pounds, over and above any penalty which he may have incurred by contravening this Act, and in default of payment

thereof at such time as to the said justices may seem fit, shall be imprisoned in the common gaol or house of correction (with or without hard labour) for a period not exceeding three months.

7. Application of Penalties.—Every penalty and forfeiture for any offence against this Act shall be paid to the moderator or other officer of the kirk session of the parish where the offence was committed, for the use and benefit of the poor of such parish.

8. Justices to fix the time for payment of penalties—Imprisonment for non-payment.—The justice or justices of the peace by whom any person shall be summarily convicted and adjudged to pay any sum of money for any offence against this Act, together with expenses, may adjudge that such person shall pay the same either immediately or within such period as the said justice or justices shall think fit; and that in default of payment at the time appointed, such person shall be imprisoned in the common gaol or house of correction (with or without hard labour) as to the justice or justices shall seem meet, . . . the imprisonment to cease upon payment of the amount and costs.

S. 8 *in part rep.* 54 *&* 55 *Vict. c.* 67 (*S.L.R.*).

[*Ss.* **9, 10** *rep.* 54 *&* 55 *Vict. c.* 67 (*S.L.R.*).]

11. Limitation of time for Prosecutions.—The prosecution for every offence punishable by virtue of this Act shall be commenced within three calendar months after the commission of the offence; . . . . . .

S. 11 *in part rep.* 54 *&* 55 *Vict. c.* 67 (*S.L.R.*)

12. Prosecutor not required to negative Licence, &c.—It shall not be necessary in any proceeding against any person under this Act to negative by evidence any licence, consent, authority, or other matter of exception or defence; but the party seeking to avail himself of any such licence, consent, authority, or other matter of exception or defence, shall be bound to prove the same.

[*Ss.* **13, 14, 15** *rep.* 54 *&* 55 *Vict. c.* 67 (*S.L.R.*).]

16. This Act not to preclude Actions for Trespass; but no double proceedings shall be had for the same Trespass.—Provided always, that nothing in this Act contained shall prevent any person from proceeding by way of civil action to recover damages in respect of any trespass upon his land, whether committed in pursuit of game or otherwise, save and except that where any proceedings shall have been instituted under the provisions of this Act against any person for or in respect of any trespass, no action at law shall be maintainable for the same trespass by any person at whose instance or with whose concurrence or assent such proceedings shall have been instituted, but that such proceedings shall in such case be a bar to any such action, and may be given in evidence to this purpose and effect.

17. Limitation of Actions—Notice of Action—Tender of Amends.—All actions and prosecutions to be commenced against any person for any thing done in pursuance of this Act shall be commenced within six calendar months after the fact committed, and not otherwise; and notice in writing of such action, and of cause thereof, shall be given to the defender one calendar month at least before the commencement of the action; and no prosecutor shall recover in any such action if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into court after such action brought, by or on behalf of the defender.

18. Extent of Act.—Nothing in this Act contained shall extend to England, Wales, or Ireland.

CHAPTER LXIX.

THE CORPORATE PROPERTY (ELECTIONS) ACT, 1832 (*Short Titles Act*, 1896).

AN ACT to prevent the application of Corporate Property to the Purposes of Election of Members to serve in Parliament. [1st August 1832.]

[*Preamble recites that the property belonging to cities, towns, cinque ports, and boroughs corporate in the United Kingdom may be wasted and dissipated by the application thereof in or towards the expenses attendant upon Parliamentary elections.*]

1. MONIES OR PERSONAL PROPERTY BELONGING TO MUNICIPAL CORPORATIONS SHALL NOT BE APPLIED FOR EXPENSES OF PARLIAMENTARY ELECTIONS; AND ALL BONDS, &C. FOR SECURING THE SAME SHALL BE VOID.—It shall not be lawful for any municipal corporation as aforesaid, or any court, guild, council, or assembly constituting or composed of the ruling or governing part or class thereof, or any corporate officer, trustee, or other person acting on behalf of such corporation or any part thereof, to pay, transfer, give, bestow, or apply any sum or sums of money, or any parliamentary or other stocks, funds, or securities for money, or any personal chattel, belonging to or vested in the same corporation or any part thereof, or in any individual in trust for or for the benefit of such corporation in satisfaction, compensation, or discharge of any expenses incident to or incurred or occasioned by the election of a member to serve in the Commons House of Parliament, or by any person offering himself as a candidate at or previous to a parliamentary election; and all bonds, covenants, recognizances, or judgments given, executed, or suffered by any such corporation, or any part or class thereof, or by any corporate officer, trustee, or other person in the name or on the behalf of such corporation, for the purpose of securing the payment of such expenses, shall be utterly void.

2. PAYMENTS, &C. MADE FOR THE PURPOSE OF INDUCING ANY PERSON TO EXERT HIMSELF IN ELECTIONS AT A FUTURE TIME TO BE CONSIDERED AS WITHIN THIS ACT.—Any gifts, transfers, payments, or gratuities, bonds, covenants, recognizances, or judgments, made, paid, given, executed, or suffered by any corporation, part of a corporation, or corporate officer, or trustee, or other person as aforesaid, for the purpose of inducing or influencing any person or persons to labour in parliamentary elections at a future time, or to pay, satisfy or incur any such expenses as aforesaid at a future time, shall be deemed to be payments, transfers, applications, and securities forbidden and declared void by this Act, although the same may be ostensibly and colourably made, paid, given, executed, or suffered for any other cause or consideration.

3. ALL DISPOSITIONS OF REAL PROPERTY, FOR THE PURPOSE OF SATISFYING OR SECURING ANY SUCH EXPENSES, TO BE VOID.—All conveyances, mortgages, leases, or other assurances or dispositions of lands, tenements, or hereditaments, belonging to or vested in or held in trust for any municipal corporation, made or executed for the purpose of securing, satisfying, or compensating any expenses, debts, payments, or disbursements, liabilities or engagements, incurred or to be incurred by the same corporation, or any part or class thereof, or any member, officer, or trustee thereof, or by any other person on behalf of such corporation, contrary to the true intent and meaning of this Act, and all estates, charges, and incumbrances thereby created, shall be utterly void.

4. ALL VOTES AND OTHER PROCEEDINGS CONTRARY TO THIS ACT TO BE VOID.—All votes, orders, or resolutions, acts, bye laws, or other proceedings made, passed, or adopted by any municipal corporation, or any part or class thereof, or any member or members thereof, for the purpose of directing or authorizing, or pretending to direct or authorize, any payment, matter, or thing forbidden by this Act, or for the purpose of evading the provisions hereby enacted, shall be utterly void.

5. CORPORATE OFFICERS OR OTHERS MAKING ANY PAYMENT OR TRANSFER CONTRARY TO THIS ACT, TO MAKE GOOD THE AMOUNT OR VALUE SO MISAPPLIED.—Any corporate officer, trustee, or other person who shall make or concur in making any payment, transfer, or application of corporation money, stocks, funds, or securities, or personal chattel, as aforesaid, contrary to the true intent and meaning of this Act, shall be deemed and taken to have made the same in his own wrong; and he shall be individually liable to repay, satisfy, and make good the amount or value thereof to the same corporation, notwithstanding any release or pretended indemnity which may be given him in the name

of the same corporation or any part or class thereof, or by any person or persons on behalf of such corporation.

6. Members of Corporation may bring Actions or Suits in the name of the Corporation against Officers misapplying Monies—Plaintiffs to give security for Costs.—It shall and may be lawful for any two or more freemen, burgesses, or corporators of such municipal corporation to commence, bring, and prosecute any action or suit, at law or in equity, in the name of the same corporation, against any officer, trustee, or other person who may have made such illegal payment, transfer, or application as above mentioned, in the same manner, to all intents and purposes, as if they, their executors and administrators, were jointly and severally appointed the irrevocable attornies of such corporation for that purpose: Provided nevertheless, that before the defendant in such action or suit shall be required to plead or answer, the plaintiffs shall give reasonable security for payment of costs, in case any shall become due from them by the event of the action or suit, in such manner as the court in which the same shall be brought may direct; such costs to be taxed as between attorney and client.

7. Members of Corporations offending against this Act guilty of a misdemeanor.—Any member of a municipal corporation who shall authorize, direct, or command any payment, transfer, or application hereby forbidden, or who shall assent to or concur or participate in any affirmative vote, order, or proceeding relating thereto, or shall sign or seal in his individual capacity or affix the corporate seal to any deed or instrument hereby declared void, shall be guilty of a misdemeanor, and, being thereof legally convicted in his Majesty's Court of King's Bench at Westminster, shall, in addition to such punishment as the court may award, be for ever disabled to take, hold, or exercise any office in the same corporation.

CHAPTER LXXV.

The Anatomy Act, 1832 (*Short Titles Act*, 1896).

An Act for regulating Schools of Anatomy. [1st August 1832.]

[*Preamble.*]

1. Home Secretary and Secretary for Ireland to grant Licences to practise Anatomy.—It shall be lawful for his Majesty's principal secretary of state for the time being for the home department in that part of the United Kingdom called Great Britain, and for the chief secretary for Ireland in that part of the United Kingdom called Ireland, to grant a licence to practise anatomy to any fellow or member of any college of physicians or surgeons, or to any graduate or licentiate in medicine, or to any person lawfully qualified to practise medicine in any part of the United Kingdom, or to any professor or teacher of anatomy, medicine, or surgery, or to any student attending any school of anatomy, on application from such party for such purpose, countersigned by two of his Majesty's justices of the peace acting for the county, city, borough, or place wherein such party resides, certifying that, to their knowledge or belief, such party so applying is about to carry on the practice of anatomy.

2. Inspectors of Schools of Anatomy to be appointed.—It shall be lawful for his Majesty's said principal secretary of state or chief secretary, as the case may be, to appoint respectively not fewer than three persons to be inspectors of places where anatomy is carried on, and at any time after such first appointment to appoint, if they shall see fit, one or more other person or persons to be an inspector or inspectors as aforesaid; and every such inspector shall continue in office for one year, or until he be removed by the said secretary of state or chief secretary, as the case may be, or until some other person shall be appointed in his place; and as often as any inspector appointed as aforesaid shall die, or shall be removed from his said office, or shall refuse or become unable to act, it shall be lawful for the said secretary of state or chief secretary, as the case may be, to appoint another person to be inspector in his room.

3. Inspectors to have Districts appointed, and their Duties to be regulated.—

It shall be lawful for the said secretary of state or chief secretary, as the case may be, to direct what district of town or country, or of both, and what places where anatomy is carried on, situate within such district, every such inspector shall be appointed to superintend, and in what manner every such inspector shall transact the duties of his office.

4. Inspectors to make Quarterly Returns of Subjects removed for Anatomical Examination.—Every inspector to be appointed by virtue of this Act shall make a quarterly return to the said secretary of state or chief secretary, as the case may be, of every deceased person's body that during the preceding quarter has been removed for anatomical examination to every separate place in his district where anatomy is carried on, distinguishing the sex, and, as far as is known at the time, the name and age of each person whose body was so removed as aforesaid.

5. And to inspect Places where Anatomy is practised.—It shall be lawful for every such inspector to visit and inspect at any time any place within his district, notice of which place has been given, as is herein-after directed, that it is intended there to practise anatomy.

6. Salaries to Inspectors.—It shall be lawful for his Majesty to grant to every such inspector such an annual salary not exceeding one hundred pounds for his trouble, and to allow such a sum of money for the expenses of his office as may appear reasonable, such salaries and allowances to be charged on the consolidated fund of the United Kingdom, and to be payable quarterly; and an annual return of all such salaries and allowances shall be made to Parliament.

7. Persons having lawful custody of Bodies may permit them to undergo Anatomical Examination in certain cases.—It shall be lawful for any executor or other party having lawful possession of the body of any deceased person, and not being an undertaker or other party intrusted with the body for the purpose only of interment, to permit the body of such deceased person to undergo anatomical examination, unless, to the knowledge of such executor or other party, such person shall have expressed his desire, either in writing at any time during his life, or verbally in the presence of two or more witnesses during the illness whereof he died, that his body after death might not undergo such examination, or unless the surviving husband or wife, or any known relative of the deceased person, shall require the body to be interred without such examination.

8. Provision in case of persons directing Anatomical Examinations after their Death.—If any person, either in writing at any time during his life, or verbally in the presence of two or more witnesses during the illness whereof he died, shall direct that his body after death be examined anatomically, or shall nominate any party by this Act authorized to examine bodies anatomically to make such examination, and if, before the burial of the body of such person, such direction or nomination shall be made known to the party having lawful possession of the dead body, then such last-mentioned party shall direct such examination to be made, and in case of any such nomination as aforesaid, shall request and permit any party so authorized and nominated as aforesaid to make such examination, unless the deceased person's surviving husband or wife, or nearest known relative, or any one or more of such person's nearest known relatives, being of kin in the same degree shall require the body to be interred without such examination.

9. Body not to be removed from the Place of Death for forty-eight hours, nor without notice to district Inspector, or to some Surgeon, nor without a Certificate of cause of Death.—Provided always, that in no case shall the body of any person be removed for anatomical examination from any place where such person may have died until after forty-eight hours from the time of such person's decease, nor until after twenty-four hours notice, to be reckoned from the time of such decease, to the inspector of the district, of the intended removal of the body, or if no such inspector have been appointed, to some physician, surgeon, or apothecary residing at or near the place of death, nor unless a certificate stating in what manner such person came by his death shall previously to the removal of the body have been signed by the physician, surgeon, or apothecary who attended such person during the illness whereof he died, or if no such medical man attended such person during such illness, then by some physician, surgeon, or apothecary who shall be called in after the death of such person to view his body, and who shall state the manner or cause of death according to the

best of his knowledge and belief, but who shall not be concerned in examining the body after removal; and that in case of such removal such certificate shall be delivered, together with the body, to the party receiving the same for anatomical examination.

10. Licensed Professors, Surgeons, and others may receive Bodies for Anatomical Examination.—It shall be lawful for any member or fellow of any college of physicians or surgeons, or any graduate or licentiate in medicine, or any person lawfully qualified to practise medicine in any part of the United Kingdom, or any professor, teacher, or student of anatomy, medicine, or surgery, having a licence from his Majesty's principal secretary of state or chief secretary as aforesaid, to receive or possess for anatomical examination, or to examine anatomically, the body of any person deceased, if permitted or directed so to do by a party who had at the time of giving such permission or direction lawful possession of the body, and who had power, in pursuance of the provisions of this Act, to permit or cause the body to be so examined, and provided such certificate as aforesaid were delivered by such party together with the body.

11. Such persons to receive with the Body a Certificate as aforesaid, which shall be transmitted with a Return to the Inspector—Particulars to be entered in a Book.—Every party so receiving a body for anatomical examination after removal shall demand and receive, together with the body, a certificate as aforesaid, and shall, within twenty-four hours next after such removal, transmit to the inspector of the district such certificate, and also a return stating at what day and hour and from whom the body was received, the date and place of death, the sex, and (as far as is known at the time) the christian and surname, age, and last place of abode of such person, or, if no such inspector have been appointed, to some physician, surgeon, or apothecary residing at or near the place to which the body is removed, and shall enter or cause to be entered the aforesaid particulars relating thereto, and a copy of the certificate he received therewith, in a book to be kept by him for that purpose, and shall produce such book whenever required so to do by any inspector so appointed as aforesaid.

12. Notice to be given of Places where Anatomy is about to be practised.—It shall not be lawful for any party to carry on or teach anatomy at any place, or at any place to receive or possess for anatomical examination, or examine anatomically, any deceased person's body after removal of the same, unless such party, or the owner or occupier of such place, or some party by this Act authorized to examine bodies anatomically, shall, at least one week before the first receipt or possession of a body for such purpose at such place, have given notice to the said secretary of state or chief secretary, as the case may be, of the place where it is intended to practise anatomy.

13. How Bodies are to be removed for Examination—Provision for Interment—Certificate of Interment.—Provided always, that every such body so removed as aforesaid for the purpose of examination shall, before such removal, be placed in a decent coffin, or shell, and be removed therein; and that the party removing the same, or causing the same to be removed as aforesaid, shall make provision that such body, after undergoing anatomical examination, be decently interred in consecrated ground, or in some public burial ground in use for persons of that religious persuasion to which the person whose body was so removed belonged; and that a certificate of the interment of such body shall be transmitted to the inspector of the district [1] within six weeks after the day on which such body was received as aforesaid.

[1] *This period may be varied by order of a Secretary of State, and in Ireland of the Chief Secretary,* 34 & 35 *Vict. c.* 16, *s.* 2.

14. Licensed Persons not to be liable to Punishment for having in their possession Human Bodies.—No member or fellow of any college of physicians or surgeons, nor any graduate or licentiate in medicine, nor any person lawfully qualified to practise medicine in any part of the United Kingdom, nor any professor, teacher, or student of anatomy, medicine, or surgery, having a licence from his Majesty's principal secretary of state or chief secretary as aforesaid, shall be liable to any prosecution, penalty, forfeiture, or punishment for receiving or having in his possession for anatomical examination, or for examining anatomically, any dead human body, according to the provisions of this Act.

15. Act not to prohibit Post-Mortem Examination directed by Authority.—Nothing in this Act contained shall be construed to extend to or to prohibit any post-mortem examination of any human body required or directed to be made by any competent legal authority.

[*S.* **16** *rep.* 54 *&* 55 *Vict. c.* 67 (*S.L.R.*); *s.* **17** *rep.* 56 *&* 57 *Vict. c.* 61.]

18. PUNISHMENT FOR OFFENCES AGAINST THIS ACT.—Any person offending against the provisions of this Act in England or Ireland shall be deemed and taken to be guilty of a misdemeanor, and being duly convicted thereof shall be punished by imprisonment for a term not exceeding three months, or by a fine not exceeding fifty pounds, at the discretion of the court before which he shall be tried; and any person offending against the provisions of this Act in Scotland shall, upon being duly convicted of such offence, be punished by imprisonment for a term not exceeding three months, or by a fine not exceeding fifty pounds, at the discretion of the court before which he shall be tried.

19. INTERPRETATION OF CERTAIN WORDS IN THIS ACT.—In this Act, the words "person and party" shall be respectively deemed to include any number of persons, or any society, whether by charter or otherwise; and the meaning of the aforesaid words shall not be restricted although the same may be subsequently referred to in the singular number and masculine gender only.

[*Ss.* **20, 21** *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).]

CHAPTER CV.

THE HOUSE OF COMMONS (SPEAKER) ACT, 1832 (*Short Titles Act*, 1896).

AN ACT for the better Support of the Dignity of the Speaker of the House of Commons; and for disabling the Speaker of the House of Commons for the Time being from holding any Office or Place of Profit, during Pleasure, under the Crown. [11th August 1832.]

[*Preamble reciting* 30 *Geo.* 3, *c.* 10, *rep.* 51 *&* 52 *Vict. c.* 57 (*S.L.R.*).]

1. THE SPEAKER OF THE HOUSE OF COMMONS TO RECEIVE A YEARLY SUM OF L.6000 PAYABLE OUT OF THE CONSOLIDATED FUND IN LIEU OF FEES, &C.—The speaker of the House of Commons for the time being shall be entitled to and shall have and receive the clear yearly sum of six thousand pounds; and the same shall be charged upon and made payable out of the consolidated fund of the United Kingdom of Great Britain and Ireland, and shall be paid quarterly . . . and such payments shall be paid out of the said consolidated fund, after paying, or reserving sufficient to pay, all such sum and sums of money as may have been directed, by any Act or Acts of Parliament passed previously to the said recited Act, to be paid out of the same, but with preference to all other payments which shall have been or may hereafter be charged upon or payable out of the said fund; . . . and the receipt of the said speaker for the time being shall be a sufficient discharge for the same.

S. 1 *in part rep.* 51 *&* 52 *Vict. c.* 57 (*S.L.R.*); *and* 53 *&* 54 *Vict. c.* 22 (*S.L.R.*).

[*S.* **2** *rep.* 51 *&* 52 *Vict. c.* 57 (*S.L.R.*).]

3. SALARY TO BE FREE OF ALL TAXES, &C.—The said sum hereby directed to be issued shall be free and clear from all taxes, impositions, fees, and other charges whatever; and the speaker of the House of Commons for the time being shall be free and clear of all taxes, impositions, fees, and charges in respect of such sum; anything herein contained in any law or statute to the contrary thereof in anywise notwithstanding.

4. PROVISION IN CASE OF A DISSOLUTION.—Provided always, that in case of any dissolution of Parliament the speaker of the House of Commons at the time of such dissolution shall for the purposes of this Act be deemed to be the speaker of the House of Commons until a speaker shall be chosen by the new Parliament.

5. SPEAKER NOT TO HOLD ANY OFFICE UNDER THE CROWN DURING PLEASURE.—The speaker of the House of Commons for the time being shall not hold or enjoy, in his own name or in the name of any person or persons in trust for him or for his benefit, any office or place of profit under the crown during pleasure.

[*Ss.* **6–8** *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).]

CHAPTER CXII.

THE CROWN LANDS (SCOTLAND) ACT 1832 (*Short Titles Act*, 1896).

AN ACT to authorise the Hereditary Land Revenues of the Crown in Scotland being placed under the Management of the Commissioners of the Land Revenues.[1] [15th August 1832.]

[1] *So much of this Act as gives to the Commissioners of Woods, Forests, Land Revenues, Works, and Buildings the management, control, and direction of all and every penalties and penalty which have been incurred or which shall or may be incurred or become anywise due and payable in Scotland, by force or virtue of any penal statute, rep.* 3 & 4 *Will.* 4, *c.* 69, *s.* 1.

[*Preamble.*]

1. THE TREASURY MAY ISSUE A WARRANT DIRECTING REVENUES, DEBTS, DUTIES, LANDS, FORFEITED ESTATES, FINES, &C. IN SCOTLAND BELONGING TO HIS MAJESTY TO BE PLACED UNDER THE MANAGEMENT OF THE COMMISSIONERS OF WOODS, FORESTS, LAND REVENUES, WORKS, AND BUILDINGS, ACTING UNDER 10 GEO. 4, C. 50, AND 2 & 3 WILL. 4, C. 1—ON THE ISSUE OF SUCH WARRANT, POWERS OF THE BARONS OF THE EXCHEQUER AS TO SUCH REVENUES, &C. TO CEASE; AND DEEDS, &C. TO BE CONSTRUED AS APPLYING TO THE COMMISSIONERS.—It shall and may be lawful to and for the Treasury, and they are hereby authorised and empowered, by warrant, to order and direct that from and after the time to be mentioned in such warrant all and every the revenues, debts, duties, and profits, of what nature or kind soever, anyways appertaining or which hereafter shall appertain to the King's Majesty, within Scotland, and all honors, castles, manors, lands, tenements, and hereditaments in Scotland, which now do or hereafter shall appertain to the King's Majesty, by force or virtue of any attainder, outlawry, seizure for any crime, or cause of forfeiture, debt, or duty, or upon any extent, commission, or otherwise, or by force and virtue of the royal prerogative, or by any other right or title whatsoever, and all and every the rents, issues, and profits thereof or of any of them, and also all and every the goods, chattels, debts, credits, rights, titles, and personal estates within Scotland, anyways accruing or belonging or which hereafter shall belong to the King's Majesty, by force or virtue of the royal prerogative, or of any attainder, outlawry, extent, inquisition, debt, duty, or forfeiture, or by any other right, title, ways, or means whatsoever, and all the remedies and means for recovering the same or the possession thereof, and all accounts relating thereto, and also all and every forfeitures and penalties which have been incurred or shall and may incur or become anyways due and payable in Scotland by force or virtue of any penal or other laws or statutes whatsoever, and also all fines, issues, forfeitures, or penalties, of what nature or kind soever, happening, arising, or accruing to the King's Majesty, within Scotland, save and except such as are now under the management of the commissioners of his Majesty's customs and excise respectively, shall be under the management, control, and direction of the commissioners for the time being of his Majesty's woods, forests, land revenues, works, and buildings in England and Ireland, and their successors, acting under or by virtue of an Act passed in the tenth year of the reign of his late Majesty King George the Fourth, intituled "An Act to consolidate and amend the "laws relating to the management and improvement of his Majesty's woods, forests, "parks, and chases, of the land revenue of the crown within the survey of the "Exchequer in England, and of the land revenue of the crown in Ireland, and for "extending certain provisions relating to the same to the Isles of Man and Alderney," and of another Act passed in the second year of the reign of his present Majesty, intituled "An Act for uniting the office of the surveyor general of his Majesty's works "and public buildings with the office of the commissioners of woods, and for other "purposes relating to the land revenues"; and from and after the time to be mentioned in such warrant as aforesaid the duties heretofore performed, and the powers heretofore exercised or exercisable, by the barons of his Majesty's Court of Exchequer in Scotland, in and about the management and control of such hereditaments and revenues respectively, shall be performed and exercised by the commissioners of his Majesty's woods, forests, land revenues, works, and buildings, and their successors; and all acts, deeds, bonds, contracts, agreements, and other instruments relating to such

hereditaments and revenues respectively, in which the said barons of his Majesty's Court of Exchequer in Scotland are named or mentioned, shall apply to the commissioners for the time being of his Majesty's woods, forests, land revenues, works, and buildings, as if such commissioners had been originally named in and made parties to such acts, deeds, bonds, contracts, agreements, and other instruments, instead of the barons of the Exchequer aforesaid.

[*S.* **2** *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).]

CHAPTER CXIII.

THE HOUSE TAX ACT, 1832 (*Short Titles Act*, 1896).

AN ACT to continue, until the Fifth Day of April One thousand eight hundred and thirty-four, Compositions for the Assessed Taxes, and to grant Relief in certain Cases. [15th August 1832.]

[*Whole Act exc. s.* **3** *rep.* 32 *&* 33 *Vict. c.* 14, *s.* 39.]

3. EXEMPTION FROM HOUSE TAX GRANTED BY 57 GEO. 3, C. 25, AND 5 GEO. 4, C. 44, IN RESPECT OF HOUSES USED SOLELY FOR TRADE MAY BE CLAIMED FOR ANY ONE OR MORE QUARTER OR QUARTERS OF A YEAR.—And whereas by two several Acts, passed in the fifty-seventh year of the reign of his late Majesty King George the Third and the fifth year of the reign of his late Majesty King George the Fourth, provision is made for granting exemptions from the duties on houses, windows, and lights, and upon inhabited houses, to persons in respect of tenements or buildings wholly occupied by them in the daytime only for the purposes of their trades or professions, where such persons also reside in a separate and distinct dwelling house or part of a dwelling house charged to the said duties: And whereas the exemption under the provisions of the said Acts cannot be acquired and granted for a lesser period than the whole year's assessment; and it is expedient to apply the said exemptions to occupiers for parts of the same year in the cases of changes of occupation herein mentioned: Be it further enacted, that where any person or persons in the said Acts or either of them described shall have occupied a tenement or building, or part of a tenement or building, for the uses and purposes allowed by the said exemptions in the said Acts contained, for a lesser period than the year of assessment, and for and during any intire quarter or quarters only thereof, it shall be lawful for the respective commissioners, on the exemption for such intire quarter or quarters being duly claimed, by a notice and declaration in the manner required by the said Acts for claiming exemptions for the year of assessment, to discharge the assessment for the intire quarter or quarters of the year for which the said exemption shall be claimed and established: Provided always, that no such claim shall be allowed to any person under this Act who shall occupy the same premises as a dwelling house, and as a tenement or building for the purposes of exemption, at different periods during one year of assessment, nor unless the occupier or occupiers quitting or the occupier or occupiers commencing the occupation of the premises in the manner allowed by the said exemptions, and who shall seek the benefit of this provision, shall, before the quitting or commencement of occupation respectively, give notice thereof to the assessor or surveyor in the manner required by the Acts in force for authorising allowances for parts of the year on changes of occupation.

CHAPTER CXV.

THE ROMAN CATHOLIC CHARITIES ACT, 1832 (*Short Titles Act*, 1896).

AN ACT for the better securing the Charitable Donations and Bequests of His Majesty's Subjects in Great Britain professing the Roman Catholic Religion. [15th August 1832.]

[*Preamble recites* 1 *W. & M. c.* 18, *and Scots Act*, 1700, *c.* 3.]

1. ROMAN CATHOLICS IN GREAT BRITAIN TO BE SUBJECT TO THE SAME LAWS AS PROTESTANT DISSENTERS, WITH RESPECT TO SCHOOLS AND PLACES OF WORSHIP, &c.—His Majesty's subjects professing the Roman Catholic religion, in respect to their schools, places for religious worship, education, and charitable purposes, in Great Britain, and the property held therewith, and the persons employed in or about the same, shall in respect thereof be subject to the same laws as the protestant dissenters are subject to in England in respect to their schools and places for religious worship, education, and charitable purposes, and not further or otherwise.

S. 1 *explained*, 19 & 20 *Vict. c.* 86, *s.* 2.

[*S.* **2** *rep.* 34 & 35 *Vict. c.* 48. *S.* **3** *rep.* 37 & 38 *Vict. c.* 35 (*S.L.R.*).]

4. THIS ACT NOT TO REPEAL PROVISIONS IN 10 GEO. 4, C. 7, FOR SUPPRESSION OF CERTAIN RELIGIOUS SOCIETIES.—Provided always, that nothing in this Act contained shall be taken to repeal or in any way alter any provision of an Act passed in the tenth year of the reign of his late Majesty King George the Fourth, intituled "An Act for "the relief of his Majesty's Roman Catholic subjects," respecting the suppression or prohibition of the religious orders or societies of the Church of Rome bound by monastic or religious vows.

5. PROPERTY HELD FOR THE PURPOSES MENTIONED IN THIS ACT, IN ENGLAND AND WALES, TO BE SUBJECT TO THE PROVISIONS OF 9 GEO. 2, C. 36.—Provided always, that all property to be acquired or held for such purposes of religious worship, education, and charitable purposes, in England and Wales, shall be subject to the provisions of an Act passed in the ninth year of the reign of King George the Second, intituled "An Act to "restrain the disposition of lands whereby the same may become unalienable," and to the same laws as the protestant dissenters are subject to in England in respect of the acquiring or holding of such property: Provided always, that nothing in this Act contained shall be taken to extend the provisions of the said last-recited Act to that part of Great Britain called Scotland.

CHAPTER CXX.

THE STAGE CARRIAGES ACT, 1832 (*Short Titles Act*, 1896).

AN ACT to repeal the Duties under the Management of the Commissioners of Stamps on Stage Carriages and on Horses let for Hire in Great Britain, and to grant other Duties in lieu thereof, and also to consolidate and amend the Laws relating thereto.[1] [16th August 1832.]

[1] *So much and such part and parts of this Act as in any manner regulate or restrict the number of passengers allowed to be carried on the outside of any stage carriage, or regulate or relate to the distribution or placing of or the manner of carrying the outside passengers on any stage carriage, and also so much and such part as requires that a separate division or space shall be allotted for luggage on the top or roof of any stage carriage, rep.* 3 & 4 *Will.* 4, *c.* 48, *s.* 1.

The duties payable under this Act, for or in respect of horses let for hire, and on licences to let horses for hire, and all clauses, provisions, and regulations for levying, collecting, and securing the said duties, but so far only as they relate to such duties, are rep. 16 & 17 *Vict. c.* 88, *s.* 1.

[*Preamble.*]

[*S.* **1** *rep.* 37 & 38 *Vict. c.* 35 (*S.L.R.*). *Ss.* **2–4** *rep.* 32 & 33 *Vict. c.* 14. *s.* 39.]

5. DEFINITION OF A STAGE CARRIAGE.—*Every carriage used or employed for the purpose of conveying passengers for hire to or from any place in Great Britain, and which when passing along any highway or other road shall travel at the rate of three miles or more in the hour, shall, without regard to the form or construction thereof, be deemed and taken to be a stage carriage within the meaning of this Act; provided the passengers, or any one or more of them, thereby conveyed, shall be charged or shall pay separate and distinct fares or a separate and distinct fare, or shall be charged or pay at the rate of separate and distinct fares for their respective places or seats or his place or seat therein or conveyance thereby; and in all proceedings at law or otherwise, and upon all occasions whatsoever, it shall be sufficient to describe any carriage used or employed as aforesaid by the term "stage carriage," without further or otherwise describing the same: Provided always, that the said term "stage carriage" shall not be deemed to extend to or to include any carriage used and employed as aforesaid wholly upon any railway, nor to any carriage drawn or impelled by the power of steam or otherwise than by animal power.* [*Rep.* 32 *&* 33 *Vict. c.* 14, *s.* 39.]

6. STAGE CARRIAGES NOT TO BE USED WITHOUT HAVING PAINTED THEREON THE PARTICULARS HEREBY REQUIRED.—It shall not be lawful for any person to keep, use, or employ any stage carriage, . . . unless the several particulars by this Act directed to be painted on every such carriage shall be painted thereon; anything in any other Act contained to the contrary thereof notwithstanding.

S. 6 *in part rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).

7. CARRIAGES WITH PARTICULARS PAINTED THEREON TO BE DEEMED STAGE CARRIAGES —WHO SHALL BE DEEMED TO BE THE OWNER OF ANY STAGE CARRIAGE.—In any action, information, or other proceeding for the recovery of any duty or penalty incurred under this Act in respect of or with relation to any stage carriage, if evidence shall be given that the carriage in respect of which or in any manner relating to which any such action, information, or proceeding shall be commenced or prosecuted was seen travelling or going upon any highway or other road, . . . having painted upon such carriage any of the particulars required by this Act to be painted upon stage carriages, such carriage shall be deemed and taken to be a stage carriage; and such evidence as aforesaid shall be received as sufficient proof that such carriage was kept, used, and employed for the purpose of conveying passengers for hire as a stage carriage within the meaning of this Act, unless the contrary be proved; and in all such actions, informations, and proceedings as aforesaid . . . the person whose name (if any) shall be painted on any such carriage, shall for the purposes of this Act (unless the contrary be proved) be deemed to be the person to whom such carriage doth belong.

S. 7 *in part rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).

[*Ss.* **8–34** *rep.* 32 *&* 33 *Vict. c.* 14, *s.* 39. *S.* **35** *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).
S. **30** *imposed a penalty for plying for hire with carriages not having plates thereon.*]

36. PARTICULARS TO BE PAINTED ON STAGE CARRIAGES—PENALTY FOR NEGLECTING TO PAINT SUCH PARTICULARS, L.5.—No stage carriage shall be used or employed unless nor until there shall be truly painted in words at length, and in legible and conspicuous letters one inch at the least in height, and of a proper and proportionate breadth, and in a colour different from and opposite to the colour of the ground on which such letters shall be painted, upon some conspicuous part of each side of such carriage, and clear of the wheel or wheels thereof, so that the same shall be at all times plainly and distinctly visible and legible, the christian name and surname of the proprietor or of one of the proprietors of such carriage, . . . ; and if any person shall use or employ any stage carriage upon which all such particulars as aforesaid shall not be truly painted in such legible and conspicuous letters and in manner aforesaid, or in case such particulars or any of them shall be partially obliterated or defaced from or upon any such carriage, then if any such person shall neglect to paint or cause to be painted again, in manner aforesaid, every particular so obliterated or defaced, such person so offending in any of the cases aforesaid shall forfeit five pounds.

S. 36 *in part rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).

37. CERTAIN STAGE CARRIAGES SHALL NOT TAKE OUTSIDE PASSENGERS OR LUGGAGE—PENALTY, L.5.—No outside passenger nor any luggage shall be carried on the top or roof

of any stage carriage, the top or roof of which from the ground shall be more than eight feet nine inches, or the bearing of which on the ground shall be less than four feet six inches from the centre of the track of the right or off wheel to the centre of the track of the left or near wheel; and if any outside passenger or luggage shall be carried on any such carriage in any manner contrary to the directions aforesaid, the driver of such carriage at the time when such offence shall be committed shall forfeit five pounds.

[*Ss.* **38–42** *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).]

43. Luggage on the top of any Stage Carriage shall not exceed the height herein specified—Penalty, L.5.—No luggage which shall be carried on the top or roof of any stage carriage drawn by four or more horses shall in any case exceed ten feet and nine inches in height from the ground, nor shall any luggage which shall be carried on the top or roof of any stage carriage drawn by two or three horses only in any case exceed ten feet and three inches in height from the ground, measuring to the highest point of any part of such luggage when placed upon the top or roof of any such carriages respectively; and if any such luggage shall in either of the cases aforesaid exceed the height by this Act in that behalf limited, the driver of such carriage at the time when such offence shall be committed shall forfeit five pounds.

[*S.* **44** *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).]

45. Justices, Road Surveyors, Toll Collectors, &c. may require Stage Carriages and Luggage to be measured, and the Passengers to be counted—Penalty on the Proprietor or Driver for refusal, L.5—Penalty on Toll-gate Keeper neglecting to provide a Measure, or refusing to count Passengers, or to measure Luggage, &c., L.5.—The proprietor of any stage carriage and the driver thereof shall, when thereunto respectively required by any justice of the peace, or by any constable, or any surveyor of any highway or turnpike road, or by any toll-gate keeper, or any officer of stamp duties, or by any passenger travelling with such carriage, permit and allow such carriage and the luggage thereon to be measured, and the number of passengers in, upon, or about such carriage to be counted; and it shall be lawful for any passenger to require the driver of any stage carriage to stop the same at any toll gate, and to require the toll-gate keeper at such gate to count the number of passengers upon the box, and in, upon, or about such carriage, and to measure and ascertain the height of the luggage thereupon, and to sign a memorandum in writing of the number of such passengers in the inside and on or about the outside of such carriage (distinguishing the number on the box) and of the height of such luggage, and to deliver such memorandum to the person so requiring the number of passengers to be counted or the height of the luggage to be measured; and the toll-gate keeper at every such gate shall provide and keep at such gate a proper measure for measuring the height of any stage carriage and of the luggage thereupon; and if any proprietor of any stage carriage, or the driver thereof, shall, when thereto respectively required as aforesaid, refuse to permit and allow such carriage and the luggage thereupon to be measured, or the number of the inside or outside passengers to be counted, or if such driver shall, on being so required as aforesaid, refuse or neglect to stop such carriage at any toll gate for the purpose aforesaid, such proprietor or such driver so refusing or neglecting as aforesaid shall forfeit five pounds; and if any toll-gate keeper shall neglect to provide and keep at any such gate a proper measure for the purposes aforesaid, or shall, on being thereunto requested as aforesaid, refuse to count the number of such passengers, or to measure and ascertain the height of such luggage, or to sign a memorandum in writing of the number of such passengers or of the height of such luggage in manner herein-before directed, or to deliver such memorandum so signed to the person entitled to require the same, or shall sign or give any memorandum in which any of the particulars aforesaid shall not be truly set forth, every such toll-gate keeper so offending shall forfeit five pounds: Provided always, that it shall not be lawful for any one passenger to require the driver of any stage carriage to stop the same for any such purpose as aforesaid more than once during any one journey, unless, after the counting of such passengers or the measuring of such luggage, any additional passenger or passengers shall be taken up into or upon such stage carriage, or additional luggage shall be placed on the top or roof thereof during the same journey.

[*S.* **46** *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).]

47. Penalty on Driver quitting the Box before a proper person shall stand at the Horses Heads, &c.; or permitting any person to drive, or quitting the Box without reason; on Guard discharging Fire-arms unnecessarily; on Driver or Guard neglecting to take care of Luggage, or asking more than the proper Fare; or neglecting to account to his Employer; or assaulting or using abusive Language to any person.—If the driver of any stage carriage drawn by three or more horses shall at any place where such carriage shall stop quit the box of such carriage, or the horses drawing the same, without delivering the reins into the hands of some fit and proper person, or before some fit and proper person shall be placed and shall stand at the heads of the horses or some of them belonging thereto, and shall have the command thereof; or if any person so placed and standing at the heads of such horses shall leave such horses before some other proper person shall be placed and stand in like manner and have the command of such horses, or before the driver of such stage carriage shall have returned and seated himself upon the box and taken the reins; or if the driver of any stage carriage shall permit any passenger or any person other than himself to drive the horses drawing such carriage; or if the driver of any stage carriage shall quit the box of such carriage without reasonable occasion, or for a longer time than such occasion shall absolutely require; . . . or if any person travelling as guard to any stage carriage shall, whilst the horses are harnessed or in the act of being harnessed thereto, and whilst any passenger shall be in, upon, or about such carriage, discharge any fire-arms, except for the necessary defence of such carriage or of the passengers or luggage being in or about the same; or if the driver or conductor or guard of any stage carriage shall neglect to take due care of any luggage whatsoever carried or to be carried by such carriage; or if any such driver or conductor or guard shall demand or receive for the fare of any passenger more than the sum which such passenger shall be liable to pay, or more than the money properly chargeable for the carriage of any luggage; or if any such driver or conductor or guard shall, when thereto required, neglect or refuse faithfully to account to his employer for all monies received by him in respect of any passenger or any luggage which shall be carried by such carriage; or if any such driver or conductor or guard shall assault or use abusive or insulting language to any person travelling or about to travel or having travelled as a passenger with or by such carriage, or to any person accompanying or attending upon any such passenger in coming to or going from any such carriage; every such offender in any of the several cases aforesaid shall forfeit five pounds.

S. 47 *in part rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).

48. Penalty on the Driver or Guard endangering Passengers or Property through Intoxication, Negligence, &c.—If the driver or conductor or guard of any stage carriage, or any other person having the care thereof, or employed in, upon, or about such carriage, shall through intoxication or negligence, or by wanton and furious driving, or by or through any other misconduct, endanger the safety of any passenger or other person, or shall injure or endanger the property of the owner or proprietor of such stage carriage or of any other person, every such person so offending shall forfeit five pounds.

49. Owners to be liable for Penalties in cases where Driver or Guard is not known or cannot be found; but may be discharged in certain cases.—Whenever it shall happen that the driver or conductor or guard of any stage carriage shall have committed any offence against this Act for the commission whereof any penalty is by this Act imposed upon such driver or conductor or guard, and not upon the proprietor of such carriage, and such driver or conductor or guard shall not be known, or being known cannot be found, then the proprietor of such carriage shall be liable to every such penalty as if he had been the driver or conductor or guard of such carriage at the time when such offence was committed: Provided always, that if any such proprietor shall make out, to the satisfaction of the justice of the peace before whom any complaint or information shall be heard, by sufficient evidence not resting on his own testimony, that the offence was committed by such driver or conductor or guard without the privity or knowledge of such proprietor, and that no profit, advantage, or benefit, either directly or indirectly, has accrued or can accrue to such proprietor therefrom, and that he has used his endeavour to find out such driver or conductor or guard, and given all reasonable information in answer to inquiries

respecting him, such justice shall discharge the proprietor from such penalty, and shall levy the same upon such driver or conductor or guard when found.

[*Ss.* **50–100** *rep. 32 & 33 Vict. c. 14, s. 39.*]

101. *Duties recoverable as other Stamp Duties*—Duties and Penalties recoverable with Costs.—*All duties granted or imposed by or incurred under this Act may be sued for and recovered by all such ways and means and in such manner and form as are and is or at any time hereafter shall be provided by law for the recovery of any other duties granted or imposed by or incurred under any other Act relating to stamp duties, as well as by the particular ways and means provided by this Act; and* [*Rep. 32 & 33 Vict. c. 14, s. 39*] in all actions, bills, plaints, informations, and proceedings to be commenced, prosecuted, entered, or filed in the name of his Majesty or of any other person, for the recovery of any such duties or of any debts or penalties which may be incurred or become payable under this Act, it shall be lawful for his Majesty, or any other person legally entitled to sue or prosecute for the same, to have and recover such duties, debts, and penalties, with full costs of suit, and all other reasonable charges and expenses.

102. In what Courts pecuniary Penalties may be sued for—Consent of the Commissioners of Stamps requisite to sue for Penalties—Commissioners may stay Proceedings.—All pecuniary penalties imposed by or which may be incurred under this Act may be sued or prosecuted for in any of his Majesty's courts of record at Westminster for any offence committed in England, Wales, or Berwick-upon-Tweed, and in his Majesty's Court of Exchequer in Scotland for any offence committed in that part of Great Britain called Scotland, by action or information: Provided always, that it shall not be lawful for any person to sue or prosecute for any such penalty in any of the courts aforesaid without having first obtained the consent in writing of two or more of the commissioners of stamps for that purpose, unless the action, suit, or prosecution for such penalty shall be carried on by the solicitor of stamps in England or Scotland respectively; and it shall be lawful for the said commissioners, if they shall think fit, to order the proceedings to be stayed in any such action, suit, or prosecution on payment of part only of any penalty incurred, with or without costs, or on payment only of the costs incurred or any part thereof, or otherwise, as they shall judge proper and expedient.

103. Penalties not exceeding L.20 recoverable before a Justice of the Peace—Appeal—Proceedings not to be quashed for want of form, &c.—Provided always, that it shall be lawful for any justice of the peace having jurisdiction where the offence shall be committed to hear and determine any offence against this Act which may subject the offender to any pecuniary penalty not exceeding twenty pounds; . . . and if the person convicted shall find himself aggrieved by the judgment of any such justice, it shall be lawful for such person to appeal against the same to the justices of the peace at the general or quarter sessions of the peace . . . Provided that no such proceedings so to be had or taken shall be quashed or vacated for want of form, or shall be removed by certiorari, suspension, advocation, or reduction, or by any other writ or process, into any superior or other court of jurisdiction; any law or usage to the contrary notwithstanding.

S. 103 *in part rep. 54 & 55 Vict. c. 67 (S.L.R.).*

104. By whom Penalties may be recovered before a Justice of the Peace.—Provided always, that it shall not be lawful for any person, other than the solicitor of stamps, or some other officer of his Majesty's stamp duties in England or Scotland respectively, to inform or prosecute before any justice of the peace for the recovery of any penalty imposed by or incurred under this Act, except in the cases next herein-after mentioned; (that is to say,) any penalty imposed or incurred with relation to horses let for hire or the duties thereon, and any penalty incurred by the driver of any stage carriage by reason of the carrying of a greater number of passengers in, upon, or about such stage carriage, than is or shall be allowed by this Act or by the licence relating to such stage carriage, and any penalty imposed or incurred by reason of the carrying of any outside passenger or any luggage on the roof or top of any stage carriage contrary in any manner to the directions of this Act, or by reason of any person sitting or being carried on any luggage, or upon that part of the roof of any stage carriage allotted for

luggage, or by reason of more than one person besides the driver sitting or being carried upon the box of any stage carriage, or of refusing to permit or allow any stage carriage or luggage to be measured or the passengers to be counted, or refusing or neglecting to stop such carriage at any toll gate for that purpose, or by reason of any other offence which may subject to any penalty the driver or conductor or guard of any stage carriage, or any person employed to hold the horses, or having the care of or being employed in or about any stage carriage, or any toll-gate keeper, toll collector, constable, or peace officer, or by reason of any person summoned as a witness neglecting or refusing to attend or give evidence; and if any person, other than such solicitor or officer as aforesaid, shall commence or prosecute any information or complaint before any justice of the peace for the recovery of any penalty imposed by or incurred under this Act, except in the several cases herein-before mentioned and allowed in that behalf, such information or complaint, and every proceeding thereupon had, shall be null and void to all intents and purposes: Provided always, that nothing herein contained shall extend to permit or allow any person, other than the solicitor or some other officer of stamp duties, to inform or prosecute for the recovery of any penalty imposed by or incurred under this Act by reason of the driver of any carriage or other person plying for passengers to be conveyed for hire by any carriage not having the proper numbered plates fixed thereon, unless the offender shall be apprehended and taken before a justice of the peace as authorized by this Act.

105. Justices may mitigate Penalties.—It shall be lawful for any justice of the peace before whom any person shall be convicted of any offence against any of the provisions of this Act to mitigate as he shall see fit any penalty by this Act imposed in cases where such justice shall see cause so to do: . . . . . .

S. 105 *in part rep.* 54 *&* 55 *Vict. c.* 67 (*S.L.R.*).

[*S.* **106** (*providing that one-half the penalty recovered is to go to the Crown, the other half to the informer*) *rep.* 51 *&* 52 *Vict. c.* 57 (*S.L.R.*).]

107. Justices shall receive the Crown's share of Penalties, and pay the same to the Clerk of the Peace, to be remitted to the Stamp Office—Justices to send a Schedule of each Conviction to the Stamp Office—Penalty on the Justice or Clerk of the Peace for neglecting to pay over the Penalties received, &c., L.50. —Every justice of the peace before whom any person shall be convicted of any offence against this Act shall take and receive the penalty or share of the penalty belonging to his Majesty levied or paid under or by virtue of such conviction; and every such justice shall pay or cause to be paid all such sums of money which he shall so take or receive as aforesaid, at the next general or quarter sessions of the peace after he shall have so taken or received the same, into the hands of the clerk of the peace or other such officer of the county or place within which such conviction shall have been made, who shall within ten days after his receipt thereof, and without fee or reward, pay or remit the same for the use of his Majesty to the solicitor of stamps at the stamp office in Westminster or Edinburgh, as the conviction shall happen to be in England or Scotland respectively, anything in any other Act contained to the contrary notwithstanding; and every such justice shall, within one week after every such payment made by him to any clerk of the peace or other such officer, transmit to such solicitor as aforesaid a schedule containing the name of the person so convicted, the nature of the offence, and the amount of the penalty of and in which he shall have been convicted, the date of such conviction, and the sum of money which shall have been paid under or by virtue thereof, together with the name of the clerk of the peace or other such officer to whom he shall have paid the same; and if any such justice shall neglect or omit to pay or cause to be paid to such clerk of the peace or other officer as aforesaid, at the time and in the manner herein-before directed, any such penalty or share of penalty received by such justice as aforesaid, or upon payment thereof shall neglect or omit to transmit to the proper solicitor of stamps such schedule as aforesaid, or if any such clerk of the peace or other officer shall neglect or omit to pay or remit any such penalty or share of penalty to such solicitor of stamps as aforesaid, within the time and in manner herein-before limited and directed in that behalf, every person so offending shall forfeit fifty pounds.

[*S.* **108** *rep.* 54 *&* 55 *Vict. c.* 67 (*S.L.R.*).]

109. Service of the Justices Summonses and other Notices.—Any summons issued by any justice of the peace requiring any defendant or any witness or other person to appear before such justice or any other justice, with reference to any information, complaint, or other proceeding for the recovery of any duty or penalty under this Act, shall be deemed to be well and sufficiently served in case either the summons or a copy thereof be served personally upon any such person as aforesaid, or be left at his usual or last place of residence, or, in case such person be a proprietor, driver, conductor, or guard of any stage carriage, be left with the bookkeeper or person for the time being acting as bookkeeper for such stage carriage in any town or place from, into, or through which such carriage shall go or be driven nearest to the place where any such offence shall be committed; and any notice by this Act required to be given to the proprietor of any stage carriage or to any other person shall be deemed to be well and sufficiently served in case either such notice or a copy thereof be served personally upon such proprietor or other person, or be left at his usual or last place of residence, (or in the case of such proprietor) be left with any bookkeeper or person acting as bookkeeper at any office belonging to such proprietor.

[*Ss.* **110, 111, 113** *rep.* 54 *&* 55 *Vict. c.* 67 (*S.L.R.*). *S.* **112** *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).]

114. Carriages, Horses, Harness, &c. chargeable with the Duties and Penalties incurred—Persons selling or disposing of such Carriages, &c. after notice of such Charge, to be liable to extent of the value thereof.—All the carriages, horses, and harness, and other articles and things kept, used, or employed by any person whether licensed under the authority of this Act or not, for the purpose of conveying passengers for hire, or for the purpose of being let for hire, as aforesaid, shall be subject and liable to and chargeable with all the duties in arrear and owing or which shall become due and payable from time to time from or by such person for or in respect of any stage carriage kept, used, or employed by such person, or for or in respect of any horse let for hire by any such person, and to and with all penalties which may be imposed upon or incurred by such person under this Act, and also to and with the costs and expenses of all proceedings which shall or may be had or taken for the recovery of such duties and penalties respectively; and all such carriages, horses, harness, and other articles and things shall, for the purpose of satisfying such duties, penalties, costs, and expenses, or any part thereof respectively, be deemed to be the goods and chattels of such person, and shall be distrained or otherwise seized or taken accordingly, in or into whose custody or possession soever the same shall or may be or come, and by or under what right or title soever the same shall or may be held or claimed; and in case any person in or into whose custody or possession any such carriages, horses, harness, or other articles shall be or come by or under any means or title whatsoever, shall convert the same to his own use, or shall sell or dispose thereof for the use or benefit of any other person, after notice given by the commissioners of stamps or their solicitor, or by any person authorized to collect or receive the duties by this Act granted, or any of them, that such carriages, horses, harness, and other articles are subject and liable to or chargeable with any of the duties, penalties, costs, and expenses aforesaid, every person so converting or selling or disposing of such carriages, horses, harness, or other articles, shall be accountable to his Majesty, to the extent of the value of such carriages, horses, harness, or other articles, for the amount of the duties, penalties, costs, and expenses, to or with which such carriages, horses, harness, and other articles shall be subject, liable, or chargeable, and the same may be sued for and recovered under and by virtue of this Act as a debt due to his Majesty accordingly.

115. In what manner Goods distrained under this Act shall be sold.—In all cases where any goods or chattels distrained or otherwise seized or taken under any of the provisions of this Act are directed to be sold, the same shall be sold by public auction, and notice of the time and place of such sale shall be given to the owner of such goods or chattels, or left at his last known place of abode, three days at least prior to such sale: Provided always, that if the owner of any such goods or chattels shall give his consent in writing to the sale thereof at an earlier period than is by this Act or shall be by any such notice appointed for such sale, or in any other manner than is by this Act directed, it shall be lawful to sell such goods or chattels according to such consent; provided also, that if the owner of such goods or chattels shall at any time before the

sale thereof pay or tender to the person who by any warrant or other process shall be directed or authorized to cause such goods or chattels to be sold the sum which he shall by such warrant or process be directed to levy or raise by sale of such goods or chattels, together with all reasonable costs and expenses incurred, no sale of such goods or chattels shall be made.

[*S.* **116** *rep.* 56 *&* 57 *Vict. c.* 61.]

117. Construction of the terms used in this Act—"Officer of Stamp Duties"—"Proprietor"—"Horse"—"Horses"—"Toll Gate"—"Toll-gate Keeper"—"Driver"—"Luggage."—Wherever in this Act, with reference to any person, matter, or thing, any word or words is or are used importing the singular number or the masculine gender only, yet such word or words shall be understood to include several persons as well as one person, females as well as males, bodies politic or corporate as well as individuals, and several matters or things as well as one matter or thing, unless it be otherwise specially provided, or there be something in the subject or context repugnant to such construction; and wherever the terms and expressions following occur in this Act they shall be construed respectively in the manner herein-after directed; (that is to say,) the term "officer of stamp duties" shall be construed to mean any officer deputed or appointed by the commissioners of stamps, whatever may be his particular office or employment; the term "proprietor," used with reference to any stage carriage, shall be construed to mean and include any and every person who shall keep, use, or employ such stage carriage, or who shall be concerned in the keeping, using, or employing thereof; . . . the term "horse" or "horses" shall respectively be construed to mean and include any mare or gelding or mares or geldings, as well as any horse or horses; the term "toll gate" shall be construed to mean any gate or bar at which any toll is payable or any ticket is receivable for any horse or carriage; the term "toll-gate keeper" shall be construed to mean and include the keeper of any such gate or bar as aforesaid, or the collector of tolls thereat, or any person acting as such keeper or collector respectively; the term "driver," used with reference to any stage carriage, shall be construed to mean the coachman, driver, or director thereof; and the term "luggage" shall be construed to mean any trunk, box, bale, parcel, package, corn, or other article, whether such trunk, box, bale, parcel, package, corn, or other article shall or shall not belong to any passenger conveyed by any such stage carriage.

S. 117 *in part rep.* 51 *&* 52 *Vict. c.* 57 (*S.L.R.*).

[*Ss.* **118–120** *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*). *Sched.* (*A.*) *rep.* 32 *&* 33 *Vict. c.* 14, *s.* 39. *Sched.* (*B.*) *rep.* 54 *&* 55 *Vict. c.* 67 (*S.L.R.*).]

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3 & 4 WILLIAM 4, 1833.

CHAPTER XIII.

The Public Revenue (Scotland) Act, 1833 (*Short Titles Act,* 1896).

An Act to provide for the Execution of the Duties performed by the Barons of Exchequer in Scotland in relation to the Public Revenue, and to place the Management of the Assessed Taxes and Land Tax in Scotland under the Commissioners for the Affairs of Taxes. [17th May 1833.]

[*Preamble recites* 6 *Anne, c.* 53, *ss.* **1**, **19**; 43 *Geo.* 3, *c.* 161; 38 *Geo.* 3, *c.* 60, *and* 42 *Geo.* 3, *c.* 116; 50 *Geo.* 3, *c.* 84, *and* 5 *Geo.* 4, *c.* 72; 5 *Geo.* 4, *c.* 90; 7 *&* 8 *Geo.* 4, *c.* 53; *and* 2 *&* 3 *Will.* 4, *c.* 112.]

1. Certain powers and duties of the Barons of the Exchequer in Scotland, as at present exercised, to cease, and be vested in the Treasury—5 Geo. 4, c. 72. —All the powers and authorities at present exercised or exerciseable by the said barons of the Court of Exchequer in Scotland, and all the duties performed by the said barons,

either in issuing precepts or directions to the collectors of the customs or cashier of excise, or any other officer or officers in the collection or receipt of any of the duties or revenues of customs or excise, or crown revenues, or of the land tax or assessed taxes, or other public monies, to pay such revenues, duties, or monies either to the receiver general for Scotland, or other officer or person whatsoever, for the public service, or any other purpose whatsoever; or in relation to the ascertaining, ordering, issuing, allowing, or paying any sum or sums of money applicable and paid towards the charges of the courts of law, or other charges not relating to the said courts, or to any fees and salaries payable out of the civil establishment of Scotland; to the ascertaining, ordering, issuing, allowing, or paying any sum or sums of money payable by way of compensation or superannuation allowance or retiring salary to any judge, officer, or other person whatsoever connected with any of the courts of law or equity in Scotland, or of or connected with the general register house or other establishment in Scotland; or in relation to the ascertaining, ordering, issuing, allowing, or paying any sum or sums of money towards the payment of the expenses of the erection, repair, or maintenance of any public work, building, undertaking or establishment; or to the securities to be taken for any sum or sums of money so paid or allowed, or to the repayment of such sum or sums, or the payment of the interest due or to become due thereon; or in relation to the issuing or paying any stipend or stipends, or ann or vacant stipends, to any of the parochial ministers of the church of Scotland, or others entitled thereto, or to the ministers of the churches erected under the said recited Act of the fifth year of the reign of his Majesty King George the Fourth, in that behalf, or others entitled thereto; or in relation to the payment of any sheriff or sheriff substitute in Scotland, or any money to be paid to or under the direction or superintendence of any sheriff, for the public service, or to or for the crown agent or any other officer or person, for the defraying the expenses of criminal prosecutions in Scotland; or otherwise towards the receiving, ordering, issuing, or paying any such duties, revenues, or public monies, and all the ministerial powers and duties connected with such payment and administration; or in relation to the granting tacks of teinds, or to the appointing to bursaries in the gift of the crown; and also all the powers and duties of the barons of the said Court of Exchequer, in regard to passing the sheriffs accounts or other accounts, and taking securities, and receiving bonds, (excepting recognizances and other securities, and the oaths taken in the discharge of judicial duties of the said barons,) shall from and after the passing of this Act cease and determine; and all such powers, authorities, and duties shall be transferred to, conferred upon, and vested in the Treasury; any Act or Acts of Parliament, or any writ of privy seal, or royal warrant, or law, usage, custom, or authority, to the contrary in anywise notwithstanding.

2. Treasury may regulate the powers and duties of the Offices of King's Remembrancer, &c. in Scotland.—It shall be lawful to the Treasury, and they are hereby authorized and empowered, by warrant from time to time, to regulate all or any of the duties of the offices of King's remembrancer in Scotland, lord treasurer's remembrancer in Scotland, auditor of Exchequer in Scotland, and receiver general of Scotland, and to consolidate, transfer, or regulate the duties of the said offices, and also to direct the exercise and performance of all or any of the powers and duties herein-before enumerated as heretofore exercised and performed by the said barons of Exchequer in Scotland, in such manner and under such regulations and conditions as the Treasury shall think fit; any Act or Acts of Parliament, or any law, usage, custom, or authority, to the contrary notwithstanding.

[*S.* **3** *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).]

4. Management and collection of Assessed Taxes and Land Tax in Scotland to be under direction of the Commissioners for the affairs of Taxes, &c.—The execution of the said recited Acts, in relation to the management and collection of the assessed taxes and land tax of Scotland, shall be under the management and direction of the said commissioners for the affairs of taxes for the time being; and it shall be lawful for the said commissioners to order and direct in relation to the division, or union, or arrangement of the several counties, cities, burghs, and districts in Scotland, for the purpose of the collection of the said assessed taxes, and land tax respectively, and the surveying, assessing, levying, and collecting the same, to settling the accounts of collectors, and to all fines, penalties, and forfeitures, and to compositions and allowances to informers, due

or payable or arising in relation thereto, and in all other matters concerning the same, in such manner and to the same effect as the said barons of the Court of Exchequer might have ordered and directed or allowed; and the several collectors and other persons now employed or hereafter to be employed under and in the execution of the said recited Acts in relation to the said taxes, shall be subject to the order, controul, and directions of the said commissioners for the affairs of taxes, in all things relating thereto, in the same manner as by the said recited Acts or any of them they were heretofore under the said barons of Exchequer.

[*Ss.* **5, 6** *rep.* 53 *&* 54 *Vict. c.* 21, *s.* 40; *s.* **7** *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).]

8. ALL THE RECITED ACTS, &C. TO REMAIN IN FORCE, EXCEPT IN SO FAR AS THEY ARE HEREBY ALTERED OR REPEALED—JUDICIAL POWERS OF THE BARONS OF EXCHEQUER SPECIALLY SAVED.—Provided always, that nothing in this Act contained shall extend or be construed to extend to repeal or alter any Act or Acts, or any part of any Act or Acts, in force relating or having reference to the said assessed taxes and land tax in Scotland at the passing of this Act, or any other Act or Acts by this Act referred to or affected, excepting in so far as such Act or Acts is or are altered or repealed by this Act; nor shall anything herein contained impair or affect, or be construed in any manner to impair or affect, the legal jurisdiction of his Majesty's Court of Exchequer in Scotland; and that all debts, duties, and revenues, and all fines, penalties, and forfeitures, which might have at the passing of this Act legally been sued for, prosecuted, and recovered in the said Court of Exchequer, according to the practice of the said court, shall continue to be sued for, prosecuted, and recovered in the said court as heretofore; any thing in this Act to the contrary notwithstanding.

[*S.* **9** *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).]

CHAPTER XIV.

THE SAVINGS BANK ACT, 1833 (*Short Titles Act*, 1896).

AN ACT to enable Depositors in Savings Banks, and others, to purchase Government Annuities through the Medium of Savings Banks; and to amend an Act of the Ninth Year of His late Majesty, to consolidate and amend the Laws relating to Savings Banks.[1] [10th June 1833.]

[1] *The sections printed are rep.* 26 *&* 27 *Vict. c.* 87, *s.* 1, *with a proviso in sect.* 68 *that that Act shall not be held to repeal any of the existing statutes relating to savings banks in so far as relates to post office savings banks established or to be established under* 24 *&* 25 *Vict. c.* 14, *nor to repeal any of the powers and authorities vested by those Acts in the commissioners for the reduction of the national debt in regard to the control, management, investment, conversion, and regulation of the funds remitted by the trustees of savings banks or by the trustees of friendly societies to the said commissioners.*

[*Preamble recites* 9 *Geo.* 4, *c.* 92.]

[*Whole Act, except ss.* **25, 28,** *and* **29,** *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).]

25. COMMISSIONERS FOR REDUCTION OF NATIONAL DEBT MAY SELL, &C., BANK ANNUITIES, &C. STANDING IN THEIR NAMES PURSUANT TO 9 GEO. 4, C. 92, AND 10 GEO. 4, C. 56, AND PURCHASE OTHER BANK ANNUITIES, &C. IN LIEU THEREOF.—It shall be lawful for the commissioners for the reduction of the national debt from time to time, and as they shall think fit, to sell and dispose of the bank annuities and Exchequer bills, or any part thereof, which may be now standing or may hereafter stand in their names in the books of the Bank of England, in pursuance of the said Act made and passed in the ninth year of the reign of King George the Fourth, intituled "An Act to consolidate "and amend the laws relating to savings banks," and of the said Act made and passed in the tenth year of the reign of his late Majesty George the Fourth, intituled "An "Act to consolidate and amend the laws relating to friendly societies," and with the proceeds thereof to purchase in lieu thereof any other description of bank annuities, or annuities for terms of years, or Exchequer bills.

28. EXECUTORS, &C. OF OFFICERS OF SAVINGS BANKS TO PAY MONEY DUE TO SAVINGS BANKS BEFORE ANY OTHER DEBTS.—If any person already appointed under the provisions

of the said Act made and passed in the ninth year of the reign of his late Majesty King George the Fourth, or who may hereafter be appointed to any office in a savings bank, or in a society established under this Act, and being intrusted with the keeping of the accounts, or having in his hands or possession, by virtue of his said office or employment, any monies or effects belonging to such savings bank or society, or any deeds or securities relating to the same, shall die, or become a bankrupt or insolvent, or have any execution or attachment or other process issued against his lands, goods, chattels, or effects, or make any assignment thereof for the benefit of his creditors, his executors, administrators, or assignees, or other persons having legal right, or the sheriff or other officer executing such process, shall, within forty days after demand made by two of the trustees of the said savings bank or society as aforesaid, deliver and pay over all monies and other things belonging to such savings bank or society to such person as the said trustees shall appoint, and shall pay out of the estates, assets, or effects of such person all sums of money remaining due which such person received by virtue of his said office or employment, before any other of his debts are paid or satisfied, or before the money directed to be levied by such process as aforesaid is paid over to the party issuing such process; and all such assets, lands, goods, chattels, estates, and effects shall be bound to the payment and discharge thereof accordingly.

[*S.* **29** *rep.* 56 *&* 57 *Vict. c.* 69.]

CHAPTER XV.

THE DRAMATIC COPYRIGHT ACT, 1833 (*Short Titles Act*, 1896).

AN ACT to amend the Laws relating to Dramatic Literary Property.
[10th June 1833.]

[*Preamble recites* 54 *Geo.* 3, *c.* 156, *s.* 4.]

1. THE AUTHOR OF ANY DRAMATIC PIECE OR HIS ASSIGNEE SHALL HAVE AS HIS PROPERTY THE SOLE LIBERTY OF REPRESENTING IT WHEN NOT PUBLISHED; AND AFTER PUBLICATION FOR 28 YEARS OR DURING AUTHOR'S LIFE—PROVISO AS TO CASES WHERE, PREVIOUSLY TO THE PASSING OF THIS ACT, CONSENT HAS BEEN GIVEN TO SUCH REPRESENTATION.—The author of any tragedy, comedy, play, opera, farce, or any other dramatic piece or entertainment, composed and not printed and published by the author thereof or his assignee, or which hereafter shall be composed and not printed or published by the author thereof or his assignee, or the assignee of such author, shall have as his own property the sole liberty of representing, or causing to be represented, at any place or places of dramatic entertainment whatsoever, in any part of the United Kingdom of Great Britain and Ireland, in the Isles of Man, Jersey, and Guernsey, or in any part of the British dominions, any such production as aforesaid, not printed and published by the author thereof or his assignee, and shall be deemed and taken to be the proprietor thereof; and the author of any such production, printed and published within ten years before the passing of this Act by the author thereof or his assignee, or which shall hereafter be so printed and published, or the assignee of such author, shall, from the time of passing this Act, or from the time of such publication respectively, until the end of twenty-eight years from the day of such first publication of the same, and also, if the author or authors, or the survivor of the authors, shall be living at the end of that period, during the residue of his natural life, have as his own property the sole liberty of representing, or causing to be represented, the same at any such place of dramatic entertainment as aforesaid, and shall be deemed and taken to be the proprietor thereof: Provided nevertheless, that nothing in this Act contained shall prejudice, alter, or affect the right or authority of any person to represent or cause to be represented, at any place or places of dramatic entertainment whatsoever, any such production as aforesaid, in all cases in which the author thereof or his assignee shall, previously to the passing of this Act, have given his consent to or authorized such representation; but that such sole liberty of the author or his assignee shall be subject to such right or authority.

2. PENALTY ON PERSONS REPRESENTING PIECES CONTRARY TO THIS ACT.—If any person shall, during the continuance of such sole liberty as aforesaid, contrary to the intent of

this Act or right of the author or his assignee, represent or cause to be represented, without the consent in writing of the author or other proprietor first had and obtained, at any place of dramatic entertainment within the limits aforesaid, any such production as aforesaid, or any part thereof, every such offender shall be liable for each and every such representation to [1] the payment of an amount not less than forty shillings, or to the full amount of the benefit or advantage arising from such representation, or the injury or loss sustained by the plaintiff therefrom, whichever shall be the greater damages, to the author or other proprietor of such production so represented contrary to the true intent and meaning of this Act, to be recovered, together with double costs of suit, by such author or other proprietors, in any court having jurisdiction in such cases in that part of the said United Kingdom or of the British dominions in which the offence shall be committed; and in every such proceeding where the sole liberty of such author or his assignee as aforesaid shall be subject to such right or authority as aforesaid, it shall be sufficient for the plaintiff to state that he has such sole liberty, without stating the same to be subject to such right or authority, or otherwise mentioning the same.

[1] *As to minimum penalty and costs, see* 51 & 52 *Vict. c.* 17, *ss.* 1, 2.

3. Limitation of Actions.—Provided nevertheless, that all actions or proceedings for any offence or injury that shall be committed against this Act shall be brought, sued, and commenced within twelve calendar months next after such offence committed, or else the same shall be void and of no effect.

4. Explanation of Words.—Whenever authors, persons, offenders, or others are spoken of in this Act in the singular number or in the masculine gender, the same shall extend to any number of persons and to either sex.

CHAPTER XXIV.

The Government Annuities Act, 1833 (*Short Titles Act*, 1896).

An Act to amend an Act of the Tenth Year of His late Majesty, for regulating the Reduction of the National Debt. [9th July 1833.]

[*Preamble recites* 10 *Geo.* 4, *c.* 27, *ss.* 3, 8, *which direct the payment of part of the surplus revenue to the National Debt Commissioners, and the application of such monies in the reduction of the National Debt.*]

1. The Commissioners for the Reduction of the National Debt may apply the Monies of the Sinking Fund to the purchase of the Reversion of Perpetual Redeemable Annuities.—It shall and may be lawful for the said commissioners for the reduction of the national debt (and the said commissioners are hereby authorized and empowered), out of any of the said monies which shall be issued to them towards the reduction of the national debt by virtue of the said recited Act or of any other Act or Acts now in force or which may hereafter be passed relating to the fund commonly called "The Sinking Fund," to apply such monies or any part thereof, if they shall think fit, at such time and times and under such regulations as the said commissioners shall think proper to adopt for that purpose, to the purchase of the reversion of any of the present existing perpetual redeemable annuities, or the reversion of any perpetual redeemable annuities which may at any time exist after the passing of this Act, and constituting the public funded debt of the United Kingdom, and to grant to any person or persons, bodies politic or corporate, in exchange for such perpetual annuities payable at the Bank of England as shall or may be transferred to them under the provisions of this Act, an annuity or annuities, to continue for such limited term of years certain, and upon such terms and conditions, as shall and may be agreed upon between the said commissioners and the parties contracting with the said commissioners.

2. Annuities for terms of years granted by virtue of this Act shall be charged upon the Consolidated Fund, and be subject to the Provisions of 10 Geo. 4, c. 24, and 2 & 3 Will. 4, c. 59.—All annuities for term of years granted by the said commissioners by virtue of this Act shall be charged and the same are hereby made

chargeable upon the consolidated fund of the said United Kingdom, and the said annuities shall be deemed and taken to be annuities for terms of years granted by the said commissioners within the meaning and intent of the Act passed in the tenth year of the reign of King George the Fourth, intituled "An Act to enable the commissioners "for the reduction of the national debt to grant life annuities, and annuities for terms "of years," and all the clauses, conditions, provisions, directions, regulations, and periods of payment contained in the said last-recited Act relating to immediate annuities granted or to be granted by the said commissioners for certain terms of years, and in a certain Act made and passed in the second and third years of the reign of King William the Fourth, intituled "An Act to transfer the management of certain annuities on lives from "the receipt of his Majesty's Exchequer to the management of the commissioners for "the reduction of the national debt, and to amend an Act for enabling the said com-"missioners to grant life annuities and annuities for terms of years," shall be deemed and taken to apply to the annuities for terms of years which shall at any time be granted by the said commissioners under and by virtue of this Act, as fully and effectually, to all intents and purposes (except as altered and varied by virtue of this Act), as if the said clauses, conditions, provisions, directions, regulations, and periods of payment were severally repeated and re-enacted in this Act.

3. ALL PERPETUAL ANNUITIES HEREAFTER TRANSFERRED TO COMMISSIONERS FOR THE REDUCTION OF THE NATIONAL DEBT SHALL BE CANCELLED.—All the perpetual annuities which shall at any time after the passing of this Act be transferred to the said commissioners under the provisions of this Act shall be forthwith cancelled in the book of the Bank of England; and the said perpetual annuities shall cease to be charged upon or to be issued out of the said consolidated fund from and after the day upon which any such perpetual annuities shall be transferred to and placed in the names of the said commissioners in the books of the said bank.

4. ANNUITIES FOR TERMS OF YEARS MAY BE TRANSFERRED TO AND FROM THE BANK OF ENGLAND AND IRELAND AS PERMITTED BY 5 GEO. 4, C. 53.—The annuities for terms of years granted by the said commissioners under the provisions of this Act, or already granted or to be granted under the said last-recited Act or of any future Act or Acts by which any annuities for terms of years certain shall be created, shall and may be transferred to and from the books of the Bank of England to the books of the Bank of Ireland, and vice versâ, for the purpose of having corresponding sums in the like annuities for terms of years written into the books of the said respective banks, in like manner and under the same regulations as any other annuities for terms of years or capital stock are permitted to be so transferred under and by virtue of [[1]an Act passed in the fifth year of the reign of King George the Fourth, intituled "An Act to permit "the mutual transfer of capital in certain public stocks or funds transferable at the "Banks of England and Ireland respectively."]

[1] *By s.* 50 *of* 33 *&* 34 *Vict. c.* 71, *Part VI. of that Act is substituted in this section for* 5 *Geo.* 4, *c.* 53.

CHAPTER XXIX.

THE ARMY (ARTILLERY, &C.) PENSIONS ACT, 1833 (*Short Titles Act*, 1896).

AN ACT to make further Provisions with respect to the payment of Pensions granted for Service in the Royal Artillery, Engineers, and other Military Corps under the Controul of the Master General and Board of Ordnance, and with respect to Deductions hereafter to be made from Pensions granted by the Commissioners of Chelsea Hospital. [24th July 1833.]

[*Preamble.*]

1. PENSIONS TO ARTILLERYMEN, &C. HERETOFORE GRANTED BY BOARD OF ORDNANCE SHALL BE GRANTED BY COMMISSIONERS OF CHELSEA HOSPITAL.—The whole of the said pensions, allowances, and relief payable to soldiers and others discharged from the royal artillery, engineers, and other military corps which have been heretofore granted and paid by the said master general and board of ordnance, shall be granted and paid

by and be under the power, management, controul, direction, and authority of the said commissioners of Chelsea hospital.

2. Regulations as to Army Pensions shall apply to Pensions under this Act. —All the clauses, rules, regulations, powers, pains, forfeitures, matters, and things contained in any Act or Acts of Parliament now in force relating to pensions granted or to be granted to disabled, invalid, or discharged soldiers, shall be applicable and applied and put in force for the purposes of this Act, with respect to all subsisting pensions already granted by the board of ordnance on account of the services herein-before mentioned, and to all pensions, relief, and allowances hereafter to be granted and payable to soldiers and others on account of such services.

[*S.* **3** *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).]

4. No Fee to be taken from Chelsea Out-Pensioners for administering Oath on receipt of Pension, &c.— . . . No fee or payment whatever shall be demanded or taken from any out-pensioner of Chelsea hospital, or charged against him, for administering or attesting any oath necessary or required to be taken for the receipt of any pension or allowance of money payable at or from Chelsea hospital, or for the making or executing or attesting any assignment of out-pension, or orders of justices relating to any out-pension, or to any payment on account thereof.

S. 4 *in part rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).

CHAPTER XXXI.

The Sunday Observance Act, 1833 (*Short Titles Act* 1896)

An Act to enable the Election of Officers of Corporations and other Public Companies now required to be held on the Lord's Day to be held on the Saturday next preceding, or on the Monday next ensuing.

[24th July 1833.]

[*Preamble.*]

1. Elections of Officers of Corporations and other Public Companies and other Meetings now required to be held on a Sunday shall be held on the Saturday preceding or the Monday following—If Election does not take place on the Saturday the person holding the Office shall continue so to do until the Monday.—Every meeting or adjourned meeting of any vestry or corporation, whether ecclesiastical or civil, or of any public company, for the nomination, election, appointment, swearing in, or admission of any officer or officers, or for the transaction of any other secular affair of such vestry, corporation, or company, and every other meeting of a public and secular nature, which, according to any Act of Parliament, or according to any charter, grant, constitution, deed, testament, law, prescription, or usage whatsoever, is or shall be required to be held on any Lord's day, or on any day which shall happen to be on a Lord's day, shall be held on the Saturday next preceding or on the Monday next ensuing, at the like hour, with like form and effect, as if the same had been held on such Lord's day; and every matter transacted at any such meeting or adjourned meeting held upon any Lord's day shall be absolutely void and of none effect, to all intents and purposes whatsoever: Provided always, that when no such nomination, election, appointment, swearing in, or admission shall have taken place on such Saturday, every person whose term of office would, according to any such Act, charter, grant, constitution, deed, testament, law, prescription, or usage, have expired on any such Lord's day, shall continue in office, and exercise and enjoy all the powers and privileges annexed or relating to such office, until and on such Monday next ensuing, in the same manner as if such Monday had been the customary day of nomination, election, appointment, swearing in, or admission.

[*S.* **2** *rep.* 52 *&* 53 *Vict. c.* 51 (*S.L.R.*).]

CHAPTER XLI.

THE JUDICIAL COMMITTEE ACT, 1833 (*Short Titles Act*, 1896).

AN ACT for the better Administration of Justice in His Majesty's Privy Council. [14th August 1833.]

[*Preamble.*]

1. CERTAIN MEMBERS OF PRIVY COUNCIL TO FORM A COMMITTEE TO BE STYLED "THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL."—The president for the time being of his Majesty's privy council, . . . and such of the members of his Majesty's privy council as shall from time to time hold any of the offices following, that is to say, the office of lord keeper or first lord commissioner of the great seal of Great Britain . . . and also all persons, members of his Majesty's privy council, who shall have been president thereof . . . or shall have held any of the other offices herein-before mentioned, shall form a committee of his Majesty's said privy council, and shall be styled "The Judicial Committee of the Privy Council": Provided nevertheless, that it shall be lawful for his Majesty from time to time, as and when he shall think fit, by his sign manual, to appoint any two other persons, being privy councillors, to be members of the said committee.

[1] *S.* 1 *extended so as to include such members of the Privy Council as hold or have held certain high judicial offices*, 50 & 51 *Vict. c.* 70, *s.* 3, *and in part rep.* 37 & 38 *Vict. c.* 35 (*S.L.R.*) *and* 51 & 52 *Vict. c.* 67 (*S.L.R.*).

[*S.* **2** *rep.* 53 & 54 *Vict. c.* 27, *s.* 18, *but see terms of repeal.*]

3. APPEALS TO KING IN COUNCIL FROM SENTENCE OF ANY JUDGE, &C. SHALL BE REFERRED TO THE COMMITTEE, TO REPORT THEREON.—All appeals or complaints in the nature of appeals whatever, which either by virtue of this Act, or of any law, statute, or custom, may be brought before his Majesty or his Majesty in council from or in respect of the determination, sentence, rule, or order of any court, judge, or judicial officer, and all such appeals as are now pending and unheard, shall from and after the passing of this Act be referred by his Majesty to the said judicial committee of his privy council, and such appeals, causes, and matters shall be heard by the said judicial committee, and a report or recommendation thereon shall be made to his Majesty in council for his decision thereon as heretofore, in the same manner and form as has been heretofore the custom with respect to matters referred by his Majesty to the whole of his privy council or a committee thereof (the nature of such report or recommendation being always stated in open court).

4. HIS MAJESTY MAY REFER ANY OTHER MATTERS TO THE COMMITTEE.—It shall be lawful for his Majesty to refer to the said judicial committee for hearing or consideration any such other matters whatsoever as his Majesty shall think fit; and such committee shall thereupon hear or consider the same, and shall advise his Majesty thereon in manner aforesaid.

5. NO REPORT TO BE MADE UNLESS WITH CONCURRENCE OF MAJORITY PRESENT—OTHER MEMBERS OF COUNCIL MAY BE SUMMONED TO ATTEND.— . . . No report or recommendation shall be made to his Majesty unless a majority of the members of such judicial committee present at the hearing shall concur in such report or recommendation: Provided always, that nothing herein contained shall prevent his Majesty, if he shall think fit, from summoning any other of the members of his said privy council to attend the meetings of the said committee.

S. 5 *in part rep.* 14 & 15 *Vict. c.* 83, *s.* 16.

6. IF HIS MAJESTY DIRECTS THE ATTENDANCE OF ANY MEMBER WHO IS A JUDGE, THE OTHER JUDGES OF THE COURT TO WHICH HE BELONGS SHALL ARRANGE WITH REGARD TO THE BUSINESS OF THE COURT.—In case his Majesty shall be pleased, by directions under his sign manual, to require the attendance at the said committee for the purposes of this Act of any member or members of the said privy council who shall be a judge or judges of the Court of King's Bench, or of the Court of Common Pleas, or of the Court of Exchequer, such arrangements for dispensing with the attendance of such judge or judges upon his or their ordinary duties during the time of such attendance at the privy council as aforesaid shall be made by the judges of the court or courts to which such

judge or judges shall belong respectively in regard to the business of the court, and by the judges of the said three courts, or by any eight or more of such judges, including the chiefs of the several courts, in regard to all other duties, as may be necessary and consistent with the public service.

7. Committee may take Evidence viva voce, or upon written Depositions.—It shall be lawful for the said judicial committee, in any matter which shall be referred to such committee, to examine witnesses by word of mouth (and either before or after examination by deposition), or to direct that the depositions of any witness shall be taken in writing by the registrar of the said privy council to be appointed by his Majesty as herein-after mentioned, or by such other person or persons, and in such manner, order, and course, as his Majesty in council or the said judicial committee shall appoint and direct; and the said registrar and such other person or persons so to be appointed shall have the same powers as are now possessed by an examiner of the High Court of Chancery or of any court ecclesiastical.

8. Committee may order any particular Witnesses to be examined, and as to any particular facts, and may remit causes for rehearing.—In any matter which shall come before the said judicial committee it shall be lawful for the said committee to direct that such witnesses shall be examined or re-examined, and as to such facts as to the said committee shall seem fit, notwithstanding any such witness may not have been examined, or no evidence may have been given on any such facts in a previous stage of the matter; and it shall also be lawful for his Majesty in council, on the recommendation of the said committee, upon any appeal, to remit the matter which shall be the subject of such appeal to the court from the decision of which such appeal shall have been made, and at the same time to direct that such court shall rehear such matter, in such form, and either generally or upon certain points only, and upon such rehearing take such additional evidence, though before rejected, or reject such evidence before admitted, as his Majesty in council shall direct; and further, on any such remitting or otherwise, it shall be lawful for his Majesty in council to direct that one or more feigned issue or issues shall be tried in any court in any of his Majesty's dominions abroad, for any purpose for which such issue or issues shall to his Majesty in council seem proper.

9. Witnesses to be examined on Oath, and to be liable to punishment for Perjury.—Every witness who shall be examined in pursuance of this Act shall give his or her evidence upon oath, or if a Quaker or Moravian upon solemn affirmation, which oath and affirmation respectively shall be administered by the said judicial committee and registrar, and by such other person or persons as his Majesty in council or the said judicial committee shall appoint; and every such witness who shall wilfully swear or affirm falsely shall be deemed guilty of perjury, and shall be punished accordingly.

10. Committee may direct feigned Issues.—It shall be lawful for the said judicial committee to direct one or more feigned issue or issues to be tried in any court of common law, and either at bar, before a judge of assize, or at the sittings for the trial of issues in London or Middlesex, and either by a special or common jury, in like manner and for the same purpose as is now done by the High Court of Chancery.

11. And may, in certain cases, direct Depositions to be read, &c. at the Trial of the Issue.—It shall be in the discretion of the said judicial committee to direct that, on the trial of any such issue, the depositions already taken of any witness who shall have died, or who shall be incapable to give oral testimony, shall be received in evidence; and further, that such deeds, evidences, and writings shall be produced, and that such facts shall be admitted, as to the said committee shall seem fit.

12. And may make orders as to the Admission of Witnesses.—It shall be lawful for the said judicial committee to make such and the like orders respecting the admission of persons, whether parties or others, to be examined as witnesses upon the trial of any such issues as aforesaid, as the lord high chancellor or the Court of Chancery has been used to make respecting the admission of witnesses upon the trial of issues directed by the lord chancellor or the Court of Chancery.

13. And may direct new Trials of Issues.—It shall be lawful for the said judicial committee to direct one or more new trial or new trials of any issue, either generally or upon certain points only; and in case any witness examined at a former trial of the same issue shall have died, or have, through bodily or mental disease or infirmity, become incapable to repeat his testimony, it shall be lawful for the said committee to direct that parol evidence of the testimony of such witness shall be received.

14. Powers of 13 Geo. 3, c. 63, and 1 Will. 4, c. 22, shall extend to the Judicial Committee.—And whereas by an Act passed in the thirteenth year of his late Majesty King George the Third, and intituled "An Act for establishing certain regulations for the better management of the affairs of the East India company, as well in "India as in Europe," and by an Act passed in the first year of the reign of his present Majesty, and intituled "An Act to enable the courts of law to order the examination of "witnesses upon interrogatories and otherwise," certain powers are given to certain courts therein mentioned to enforce and provisions are made for the examination of witnesses by commission, upon interrogatories and otherwise: Be it therefore further enacted, that all the powers and provisions contained in the two last-mentioned Acts, or either of them, shall extend to and be exercised by the said judicial committee in all respects as if such committee had been therein named as one of his Majesty's courts of law at Westminster.

15. Costs to be in the discretion of the Committee.—The costs incurred in the prosecution of any appeal or matter referred to the said judicial committee, and of such issues as the same committee shall under this Act direct, shall be paid by such party or parties, person or persons, and be taxed by the aforesaid registrar, or such other person or persons, to be appointed by his Majesty in council or the said judicial committee, and in such manner as the said committee shall direct.

16. Decrees to be enrolled.—The orders or decrees of his Majesty in council made, in pursuance of any recommendation of the said judicial committee, in any matter of appeal from the judgment or order of any court or judge, shall be enrolled for safe custody in such manner, and the same may be inspected and copies thereof taken under such regulations, as his Majesty in council shall direct.

17. Committee may refer matters to Registrar in the same manner as matters are by the Court of Chancery referred to a Master.—It shall be lawful for the said committee to refer any matters to be examined and reported on to the aforesaid registrar, or to such other person or persons as shall be appointed by his Majesty in council or by the said judicial committee, in the same manner and for the like purposes as matters are referred by the Court of Chancery to a master of the said court; and for the purposes of this Act the said registrar and the said person or persons so to be appointed shall have the same powers and authorities as are now possessed by a master in Chancery.

18. His Majesty may appoint Registrar.—It shall be lawful for his Majesty, under his sign manual, to appoint any person to be the registrar of the said privy council, as regards the purposes of this Act, and to direct what duties shall be performed by the said registrar.

19. Attendance of Witnesses, and production of Papers, &c., may be compelled by Subpœna.—It shall be lawful for the president for the time being of the said privy council to require the attendance of any witnesses, and the production of any deeds, evidences, or writings, by writ to be issued by such president in such and the same form, or as nearly as may be, as that in which a writ of subpœna ad testificandum or of subpœna duces tecum is now issued by his Majesty's Court of King's Bench at Westminster; and every person disobeying any such writ so to be issued by the said president shall be considered as in contempt of the said judicial committee, and shall also be liable to such and the same penalties and consequences as if such writ had issued out of the said Court of King's Bench, and may be sued for such penalties in the said court.

20. Time of Appealing.—All appeals to his Majesty in council shall be made within such times respectively within which the same may now be made, where such time shall be fixed by any law or usage, and where no such law or usage shall exist, then within such time as shall be ordered by his Majesty in council; and subject to any right subsisting under any charter or constitution of any colony or plantation, it shall be lawful for his Majesty in council to alter any usage as to the time of making appeals, and to make any order respecting the time of appealing to his Majesty in council.

21. Decrees on Appeals from Courts abroad to be carried into effect as the King in Council shall direct.—Saving of Powers, &c. of Privy Council, except as hereby altered.—The order or decree of his Majesty in council on any appeal from the order, sentence, or decree of any court of justice in the East Indies, or of any colony, plantation, or other his Majesty's dominions abroad, shall be carried into effect in such manner, and subject to such limitations and conditions, as his Majesty in council shall,

on the recommendation of the said judicial committee, direct; and it shall be lawful for his Majesty in council, on such recommendation, by order to direct that such court of justice shall carry the same into effect accordingly, and thereupon such court of justice shall have the same powers of carrying into effect and enforcing such order or decree as are possessed by or are hereby given to his Majesty in council: Provided always, that nothing in this Act contained shall impeach or abridge the powers, jurisdiction, or authority of his Majesty's privy council as heretofore exercised by such council, or in anywise alter the constitution or duties of the said privy council, except so far as the same are expressly altered by this Act, and for the purposes aforesaid.

[*S.* **22**, *as to appeals from the Sudder Dewanny Adawlut courts, rep.* 24 *&* 25 *Vict. c.* 101 (*S.L.R.*).]

23. Orders made on such Appeals to have effect notwithstanding death of parties, &c.—In any case where any order shall have been made on any such appeal as last aforesaid, the same shall have full force and effect notwithstanding the death of any of the parties interested therein; but in all cases where any such appeal may have been withdrawn or discontinued, or any compromise made in respect of the matter in dispute, before the hearing thereof, then the determination of his Majesty in council in respect of such appeal shall have no effect.

24. His Majesty may make Orders for regulating the Mode, &c. of Appeals.—It shall be lawful for his Majesty in council from time to time to make any such rules and orders as may be thought fit for the regulating the mode, form, and time of appeal to be made from the decisions of the said courts of Sudder Dewanny Adawlut, or any other courts of judicature in India or elsewhere to the eastward of the Cape of Good Hope (from the decisions of which an appeal lies to his Majesty in council), and in like manner from time to time to make such other regulations for the preventing delays in the making or hearing such appeals, and as to the expenses attending the said appeals, and as to the amount or value of the property in respect of which any such appeal may be made.

[*Ss.* **25–27** *rep.* 24 *&* 25 *Vict. c.* 101 (*S.L.R.*).]

28. Power of enforcing Decrees.—The said judicial committee shall have and enjoy in all respects such and the same power of punishing contempts and of compelling appearances, and his Majesty in council shall have and enjoy in all respects such and the same powers of enforcing judgments, decrees, and orders, as are now exercised by the High Court of Chancery or the Court of King's Bench (and both in personam and in rem), ...

S. 28 *in part rep.* 6 *&* 7 *Vict. c.* 38, *s.* 6.

[*S.* **29** *rep.* 38 *&* 39 *Vict. c.* 66 (*S.L.R.*).]

30. Two retired Indian or Colonial Judges attending the Judicial Committee shall receive an Allowance.—Two members of his Majesty's privy council who shall have held the office of judge in the East Indies or any of his Majesty's dominions beyond the seas, and who, being appointed for that purpose by his Majesty, shall attend the sittings of the judicial committee of the privy council, shall severally be entitled to receive over and above any annuity granted to them in respect of having held such office as aforesaid, the sum of four hundred pounds for every year during which they shall so attend as aforesaid, as an indemnity for the expense which they may thereby incur; and such sum of four hundred pounds shall be chargeable upon and paid out of the consolidated fund of the United Kingdom of Great Britain and Ireland.

31. Saving as to Treaties with Foreign Countries appointing certain persons to hear Prize Appeals.—Provided always, that nothing herein contained shall be held to impeach or render void any treaty or engagement already entered into by or on behalf of his Majesty, or be taken to restrain his Majesty from acceding to any treaty, with any foreign prince, potentate, or power, in which treaty it shall be stipulated that any person or persons other than the said judicial committee shall hear and finally adjudicate appeals from his Majesty's courts of admiralty in causes of prize; but that the judgments, decrees, and orders of such other person or persons so appointed by treaty shall be of the same force and effect of which they would respectively have been if this Act had not been passed.

CHAPTER XLVIII.

THE LONDON HACKNEY CARRIAGES ACT, 1833 (*Short Titles Act*, 1896).

AN ACT to amend an Act of the Second and Third Years of His present Majesty, relating to Stage Carriages in Great Britain; and also to explain and amend an Act of the First and Second Years of His present Majesty, relating to Hackney Carriages used in the Metropolis. [28th August 1833.]

[*Preamble recites that it is desirable to alter and amend* 2 *&* 3 *Will.* 4, *c.* 120, *in the several particulars herein-after mentioned.*]

[*Ss.* **1–3** *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).]

4. NO PERSON TO SIT ON LUGGAGE ON ROOF, NOR MORE THAN ONE PERSON WITH DRIVER ON BOX OF STAGE CARRIAGE.—No person shall be allowed to sit or be carried upon any luggage placed on the roof of any stage carriage, and not more than one passenger or other person shall be allowed to sit or be carried upon the box with the driver of any stage carriage; and if any person shall sit or be carried upon any luggage placed as aforesaid, or if more than one person besides the driver shall sit or be carried upon the box of any stage carriage, the driver of such stage carriage at the time when any such offence shall be committed shall forfeit five pounds.

5. RECOVERY OF PENALTIES.—All penalties which may be incurred under the provisions of this Act may be prosecuted for and recovered by information or complaint before a justice of the peace in the name of any person who will inform or complain in that behalf, by the same ways and means and in the same manner and form as are and is provided for the recovery of any penalty incurred under the said recited Acts; and all clauses, regulations, and provisions contained in the said recited Act, relating to the recovering, levying, or mitigating of the penalties thereby imposed, shall be of full force and effect, and shall be applied and put in execution for the recovering, levying, and mitigating of the penalties by this Act imposed, as fully and effectually to all intents and purposes as if such clauses, regulations, and provisions had been repeated and specially enacted in this Act with reference to the penalties by this Act imposed.

6. APPLICATION OF PENALTIES.—Provided always, that all pecuniary penalties imposed by or incurred under this Act and under the said recited Act, or either of them, whether the same shall be sued or prosecuted for and recovered by or in the name of his Majesty's attorney general in England, or his Majesty's advocate for Scotland, or the solicitor of stamps, or any other officer of stamp duties in England or Scotland respectively, or for the recovery of which any information or complaint shall be made or any action or suit commenced by any other person or persons whomsoever, shall go and be applied to the use of his Majesty, anything in the said recited Act to the contrary thereof notwithstanding; and all such penalties shall be paid or remitted to the solicitor of stamps in the manner directed by the said Act, and shall be deemed to be part of his Majesty's revenue arising from stamp duties, and shall accordingly be accounted for and paid by the said solicitor to the receiver general of stamp duties: Provided always, that it shall be lawful for the commissioners of stamps, at their discretion, to give all or any part of any such penalties as rewards to any person or persons who shall have detected the offences for or in respect of which such penalties shall have been incurred, or who shall have given information which may have led to the discovery thereof or to the conviction of the offenders.

[*S.* **7** *applies to London exclusively.*]

CHAPTER XLIX.

THE QUAKERS AND MORAVIANS ACT, 1833 (*Short Titles Act*, 1896)

AN ACT to allow Quakers and Moravians to make Affirmation in all Cases where an Oath is or shall be required. [28th August 1833.]

[*Preamble.*]

1. QUAKERS AND MORAVIANS MAY IN ALL CASES MAKE A SOLEMN AFFIRMATION OR DECLARATION INSTEAD OF AN OATH—PENALTY FOR AFFIRMING OR DECLARING FALSELY—FORM OF AFFIRMATION OR DECLARATION.—Be it enacted that every person of the persuasion of the people called Quakers, and every Moravian, be permitted to make his or her solemn affirmation or declaration, instead of taking an oath, in all places and for all purposes whatsoever where an oath is or shall be required either by the common law or by any Act of Parliament already made or hereafter to be made, which said affirmation or declaration shall be of the same force and effect as if he or she had taken an oath in the usual form; and if any such person making such solemn affirmation or declaration shall be lawfully convicted wilfully, falsely, and corruptly to have affirmed or declared any matter or thing, which if the same had been in the usual form would have amounted to wilful and corrupt perjury, he or she shall incur the same penalties and forfeitures as by the laws and statutes of this realm are enacted against persons convicted of wilful and corrupt perjury, any law, statute, or custom to the contrary notwithstanding: Provided always, that every such affirmation or declaration shall be in the words following; (that is to say,) 'I A.B. being one of the people 'called Quakers [or one of the persuasion of the people called Quakers, or of the united 'brethren called Moravians, as the case may be,] do solemnly, sincerely, and truly 'declare and affirm.'

[*S.* **2** *rep.* 34 *&* 35 *Vict. c.* 48.]

CHAPTER L.

THE CUSTOMS (REPEAL) ACT, 1833 (*Short Titles Act*, 1896).

AN ACT to repeal the several Laws relating to the Customs. [28th August 1833.]

[*Preamble.*]

[*Ss.* **1, 2** *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).]

3. ALL ACTS RELATING TO CUSTOMS, NAVIGATION, OR SMUGGLING REPEALED, EXCEPT AS HEREIN EXCEPTED—18 GEO. 3, C. 12—31 GEO. 3, C. 31—4 GEO. 4, C. 80—5 GEO. 4, C. 64—6 & 7 WILL. & MAR. C. 10; 31 GEO. 3, C. 36—6 GEO. 4, C. 78—9 GEO. 4, C. 44—1 & 2 WILL. 4, C. 4—1 & 2 WILL. 4, C. 13.—All Acts and parts of Acts relating to the revenue of customs, to navigation, or to the prevention of smuggling, in any part of the British dominions, so far as the same shall be in force at the commencement of this Act, shall be and the same are hereby repealed, save and except such Acts and parts of Acts as are herein-after mentioned and described; that is to say, an Act passed in the eighteenth year of the reign of his Majesty King George the Third, intituled "An Act for removing all doubts and apprehensions concerning taxation by the Parlia- "ment of Great Britain in any of the colonies, provinces, and plantations in North "America and the West Indies, . . . "; and also so much of any Act or Acts, or the part of any Act or Acts, now in force, which was or were passed prior to the last-mentioned Act, and by which any duties in any of the British possessions in America were granted and still continue payable to the crown, as relates to the collection and appropriation of such duties, except as herein-after excepted; and also an Act passed in the thirty-first year of the reign of his Majesty King George the Third, intituled "An Act "to repeal certain parts of an Act passed in the fourteenth year of his Majesty's "reign, intituled 'An Act for making more effectual provision for the government "'of the province of Quebec in North America,' and to make further provisions "for the government of the said province"; . . . and also an Act passed in the

fourth year of the reign of his late Majesty King George the Fourth, intituled "An Act to consolidate and amend the several laws now in force with respect to trade "from and to places within the limits of the charter of the East India Company, and "to make further provisions with respect to such trade, . . . "; . . . and also an Act passed in the fifth year of the reign of his late Majesty King George the Fourth, intituled "An Act to amend the several Acts for the encouragement and improvement "of the British and Irish fisheries"; and all other Acts and parts of Acts relating to the said fisheries which were in force upon the fifth day of January one thousand eight hundred and twenty-six; and also an Act passed in the sixth and seventh year of the reign of King William the Third, . . . and another Act passed in the thirty-first year of the reign of his said Majesty, which several Acts relate to certain keel boats and carriages, and for loading coals on board ships; and also an Act passed in the sixth year of the reign of his late Majesty King George the Fourth, intituled "An Act to repeal "the several laws relating to the performance of quarantine, and to make other pro- "visions in lieu thereof"; . . . and any Act or Acts for amending or continuing the same; and also save and except all such Acts and parts of Acts as relate to the maintaining or improving of any harbours, havens, ports, rivers, piers, lighthouses, docks, canals, basins, or warehouses; and also all Acts and parts of Acts which are of a local or personal nature, not being public general Acts, although declared public; and also all Acts and parts of Acts whereby any duties are made applicable to any particular purpose, or for the use or benefit of any particular person or persons, or body or bodies corporate or politic, or of any society or company; . . . and also all Acts and parts of Acts relating to the excise, so far only as the provisions of any such Acts might and are to be put in force by the commissioners of the excise or their officers in the United Kingdom, or by the commissioners of customs or their officers in Ireland; . . . and also an Act passed in the ninth year of the reign of his late Majesty King George the Fourth, intituled "An Act to provide for the execution throughout the United Kingdom "of the several laws of excise relating to licences and survey on tea, coffee, cocoa, pepper, "tobacco, snuff, foreign and colonial spirits and wine, notwithstanding the transfer to "the customs of the import duties on any of such commodities"; . . . and also so much of an Act passed in the first and second year of the reign of his present Majesty King William the Fourth, intituled "An Act to abolish certain oaths and "affirmations taken and made in the customs and excise departments of his Majesty's "revenue, and to substitute declarations in lieu thereof," as relates to the department of excise; and also an Act passed in the first and second year of the reign of his present Majesty King William the Fourth, intituled "An Act to repeal an Act of the nineteenth "year of King George the Third, for repealing so much of several Acts as prohibit the "growth and produce of tobacco in Ireland, and to permit the importation of tobacco "of the growth and produce of that kingdom into Great Britain"; . . . all which said several Acts and parts of Acts so saved and excepted shall continue in such force and effect as they would have been if this Act had not been passed.

S. 3 *in part rep.* 37 & 38 *Vict. c.* 35 (*S.L.R.*); *and* 51 & 52 *Vict. c.* 57 (*S.L.R.*).

[*Ss.* **4–6** *rep.* 37 & 38 *Vict. c.* 35 (*S.L.R.*).]

CHAPTER LXIX.

THE CROWN LANDS (SCOTLAND) ACT, 1833 (*Short Titles Act*, 1896).

AN ACT to extend and enlarge the Powers of the Commissioners of His Majesty's Woods, Forests, Land Revenues, Works, and Buildings, in relation to the Management and Disposition of the Land Revenue of the Crown of Scotland. [28th August 1833.]

[*Preamble recites* 10 *Geo.* 4, *c.* 50, 1 *Will.* 4, *c.* 25, 2 & 3 *Will.* 4, *c.* 1, *and* 2 & 3 *Will.* 4, *c.* 112.]

[*S.* **1** *rep.* 37 & 38 *Vict. c.* 35 (*S.L.R.*).]

2. COMMISSIONERS TO HAVE THE SAME POWERS WITH REGARD TO LAND REVENUE IN

Scotland as with respect to Land Revenue in England.—The said commissioners for the time being of his Majesty's woods, forests, land revenues, works, and buildings shall have and exercise all and every the powers and authorities whatsoever with regard to his Majesty's land revenue, lands, teinds, feu retour, and other duties and casualties in Scotland under their management and controul, as are contained in the said Act passed in the tenth year of the reign of his late Majesty King George the Fourth with respect to his Majesty's land revenue in England, and which the said commissioners are now entitled to have and exercise with respect to the land revenue in England, and in all respects as if his Majesty's land revenue, lands, teinds, feu retour, and other duties and casualties in Scotland, had been included and named in the said last-mentioned Act, and the several clauses and provisions therein contained had been made applicable thereto, in the same manner as the same are made applicable to his Majesty's land revenue in England.

3. All the Provisions of 10 Geo. 4, c. 50, as to selling, leasing, &c. the Land Revenues, and all the powers, &c. thereby given to the Commissioners, shall extend to this Act.—All and every the provisions, regulations, directions, clauses, matters, things, powers, and authorities in the said recited Act of the tenth year of the reign of his late Majesty King George the Fourth contained, either expressly or by reference to other Acts, relating to the selling, leasing, exchanging, and general administration of the possessions and land revenues of the crown of England, and all other the powers, provisions, and authorities in and by the said recited Act of the tenth year of the reign of his late Majesty King George the Fourth given to the said commissioners of woods, shall, so far as the same are applicable or can be applied, extend and be construed to extend to this present Act, as fully, amply, and effectually, to all intents and purposes whatsoever, as if the same provisions, regulations, directions, clauses, matters, things, powers, and authorities were particularly repeated and re-enacted in this present Act, and made applicable to the said commissioners of his Majesty's woods, forests, land revenues, works, and buildings, or as if the said possessions and land revenues of the crown in Scotland had been included in the said recited Act of the tenth year of the reign of his said late Majesty, and the aforesaid powers and provisions had been thereby made applicable to the possessions and land revenues of the crown in Scotland; (except that in all cases in which the sanction of the Court of Exchequer in England is by the said recited Act of the tenth year of the reign of his late Majesty King George the Fourth made necessary, the sanction and authority of the Court of Session in Scotland shall be sufficient with respect to the said possessions and land revenues of the crown in Scotland; and except that all deeds, conveyances, or other documents relating to any sale, feu, exchange, lease, or purchase under the authority of this Act, need not be inrolled in such manner as is directed by the said Act of the tenth year of the reign of his late Majesty King George the Fourth with respect to the instruments whereby any hereditaments in England should be sold under the authority of the said Act).

4. Purchase Money, how to be paid; where the sum amounts to L.100; where the sum is under L.100—Upon production of Receipt, &c. Commissioners to execute a Conveyance of the Property sold—Conveyance when recorded in the Register of Sasines to be held to alienate the Property from his Majesty.—Whenever the commissioners for the time being of his Majesty's woods, forests, land revenues, works, and buildings shall have contracted or agreed with any person, body politic, corporate, or collegiate, under the authority of this Act, for the sale, feuing, letting, exchanging, or otherwise disposing to him or them of any part of the lands or other property or subjects of the crown to which this Act relates (not being any subsisting lease which may have been purchased or taken under the powers of this Act), the purchaser, in case the purchase money shall amount to the sum of one hundred pounds, shall cause the same to be paid into the Bank of England, or any chartered bank in Scotland, or branch of the same throughout Scotland, as the said commissioners may direct; and the secretary, cashier, or other proper officer of the Bank of England, or such chartered bank or branch thereof, shall, upon the production of any note signed by the said commissioners, specifying the sum to be so paid, and that it is to be so paid to their account, accept and receive the same, and carry the same to the account of the said commissioners of his Majesty's woods, forests, land revenues, works, and buildings, and give a receipt for the same without fee or reward; but if such purchase money shall not amount to the sum of one hundred pounds, it shall not be necessary for the

purchaser to pay the same into the Bank of England, or such chartered bank or branch thereof, but he or they may, at his or their option, either pay the same into the Bank of England, or any such chartered bank or branch thereof, as the said commissioners may direct (in which case the secretary, cashier, or other proper officer of the said Bank of England, or any such chartered bank or branch thereof, shall accept and give a receipt for the same as aforesaid), or to the said commissioners for the time being of his Majesty's woods, forests, land revenues, works, and buildings, or their collector or agent to be appointed by them for that purpose; and the said commissioners shall, on the production of the receipt of the secretary, cashier, or other proper officer of the Bank of England, or such chartered bank or branch thereof, for such purchase money, or in case the same shall not amount to one hundred pounds, then either on the production of such receipt, or on the payment to them, their collector or agent, of such purchase money, execute to the purchaser a conveyance, either printed or written, or partly printed and partly written, under their hands, of the lands or other property or subjects agreed to be sold or exchanged, and give a receipt for the purchase money under their hands; and every such conveyance and receipt may be according to the form set forth in the schedule to this Act annexed, or in any other form which may be deemed by the said commissioners more convenient; and every such conveyance and receipt shall be attested, as to the execution and signing thereof, by two witnesses; and it is hereby declared, that any deed, grant, or conveyance so made and granted of the lands, teinds, feu retour, and other duties, casualties, rents, and other the heritable property of the crown in Scotland, by the said commissioners, on being recorded or registered in the general or particular register of sasines, shall be held to alienate and dispone from his Majesty the property or other subjects therein expressed to be comprised, in as valid a manner as if a complete feudal right holding of and under his Majesty had been granted, or as if the same had been constituted by a formal crown charter, and followed by the sasine.

5. On Sale of Teinds, &c. to the Vassal, Receipt for Purchase Money shall contain a Declaration that on the next Renewal of Investiture the Charter shall contain a Blench Holding in lieu of the Feu, &c.—It shall and may be lawful for the said commissioners of his Majesty's woods, forests, land revenues, works, and buildings, on the sale of any teind, feu retour, or other duties, casualties, or rents, if such sale shall be made to the vassal in the feu, to grant a receipt for the purchase money or other consideration agreed to be given for the same, and which receipt shall also contain a declaration that on the next renewal of the investiture in favour of the vassal, or of his heirs or disponees, the charter, precept, or other deed to be granted by or on behalf of the crown shall contain a blench holding in lieu and place of the feu or other holding or duty in the original rights or investitures; and such receipt and declaration, delivered to the vassal so purchasing, on payment of the purchase money, shall be a sufficient renunciation and voucher to him or her, or his or her heirs and successors, until the renewal of such investiture, and shall be a sufficient warrant to the barons of the Court of Exchequer in Scotland, and all others, when a renewal of the investiture shall be required, to grant such renewed investiture with a blench holding.

6. Proprietors, &c. of Entailed Estates may purchase the Teinds, &c. affecting the same.—42 Geo. 3, c. 116.—It shall and may be lawful for the proprietors of entailed estates in Scotland, and for their trustees, and the tutors, curators, and administrators in law of such proprietors, to purchase the teind, feu retour, and other duties, casualties, rents, and all other the land revenues due to and exigible by the crown, and affecting such estates, and which the said commissioners are hereby authorized to sell and dispose of, and either to disburden their estates, from the payment of such teind, feu retour, or other duty, casualty, or rent, or to make the purchase money of the same a debt and burden on such entailed estate, in like manner as the sum paid for redemption of the land tax is made a burden on entailed property in terms of an Act passed in the forty-second year of the reign of his late Majesty King George the Third, intituled "An Act for consolidating the provisions of the several Acts passed "for the redemption and sale of the land tax into one Act, and for making further "provision for the redemption and sale thereof, and for removing doubts respecting "the right of persons claiming to vote at elections for knights of the shire and other "members to serve in Parliament, in respect of messuages, lands, or tenements, the "land tax upon which shall have been redeemed or purchased," or of any other Act or Acts of Parliament in relation thereto now in force.

7. Commissioners to cause Duplicates of all Conveyances, Deeds, &c. to be registered and preserved in the Chancery of Scotland; and a Minute or Docket of every Conveyance, &c. to be entered and preserved in their Office.—Provided always, that the said commissioners for the time being of his Majesty's woods, forests, land revenues, works, and buildings shall cause duplicates of all conveyances, deeds, and documents, whereby any lands or other property or subjects in Scotland shall be hereafter purchased or taken in exchange by them for or on behalf of his Majesty, under the authority of this Act, or which shall be conveyed or leased to his Majesty, or to any person in trust for him, and of all leases to be made or granted by the said commissioners under the authority of this Act of any lands or other heritable property or subjects of the crown in Scotland, and of all conveyances, deeds, and documents, whereby any part of the lands or other property or subjects of the crown in Scotland shall be granted, sold, exchanged, or conveyed under the powers of this Act, to be transmitted to the office of Chancery of Scotland, there to be recorded or registered; and every such duplicate shall be there preserved and recorded among the other records and muniments relating to the lands or other property or subjects of the crown preserved in such office: and a minute or docket of every such conveyance, deed, or document shall be entered and preserved by the said commissioners of his Majesty's woods, forests, land revenues, works, and buildings, in their office.

8. Original Conveyance, &c. or Duplicate thereof, or Copy or Extract thereof duly attested, to be in all Courts evidence of right and title.—Not only the original conveyance, deed, or other document by which any lands or other heritable property or subjects to which this Act relates shall be disposed of under the provisions of this Act, but also the duplicate thereof, to be so transmitted as aforesaid, or a copy or extract of such duplicate, attested by the officer for the time being in whose custody the same shall remain, (and which copies the said officer is hereby authorized and required to grant to any person applying for the same, on payment of a fee of one shilling for every such copy, and if the same shall consist of more than seventy-two words, then of a further fee of one shilling for every seventy-two words over the first seventy-two words,) shall be admitted in all courts as evidence of the right and title of the purchasers, grantees, lessees, and all persons claiming under them, to the subjects to which such conveyances, deeds, or other documents shall relate.

9. Every Conveyance, &c. recorded in Chancery in Scotland to be of like force as if registered in Books of Council and Session or Register of Sasines.—Every conveyance, deed, or other document whereby any lands or other heritable property or subjects to which this Act relates, or any term of years or interest therein, shall be conveyed or leased to his Majesty, or to a trustee or trustees for his Majesty, under the authority of this Act, shall, without any other inrolment or registration thereof than in the office of Chancery in Scotland as aforesaid, be of the like force in favour of his Majesty, as if the same had been or was inrolled or registered in the books of council and session, or in the general or special register of sasines in the county, shire, or stewartry within which the lands or other heritable property or subjects shall be situate.

10. A Memorandum of every Conveyance, &c. setting forth the several particulars, to be entered in the Minute Book of the Register of Sasines, &c. within 14 days after execution thereof.—Provided always, that a note or memorandum of every such conveyance, deed, or other document, setting forth the date thereof, the names of the disponer or granter and disponee or grantee, and the leading names of the lands or heritages, and of the county or counties wherein the same are situated, shall, within fourteen days after the execution thereof, or as soon thereafter as possible, be entered by the grantee in the minute book of the register of sasines at Edinburgh, of the date on which such note or memorandum is presented, and also upon the margin of the entry in the register of sasines, general or particular, of the last instrument of sasine in the property of the lands or heritages alienated, recorded in such register; and such entries shall be so made without fee or reward payable therefor.

11. Application of Purchase Monies.—All sums to be received under the authority of this Act, for or in respect of any sales, or for equality of exchange on any exchange of any of the said lands or other property or subjects to which this Act relates, shall be applied in the payment of the purchase monies on the purchase of any lands or other property or subjects under the authority of this Act, or in the purchase of any lease of

any part of the lands and other property or subjects of the crown which may be bought in under the authority of this Act, and in payment of the monies to be paid for equality of exchange on any exchange to be made under the authority of this Act, and of the expenses of the said commissioners of his Majesty's woods, forests, land revenues, works, and buildings in or relating to such purchases and exchanges, and in the payment of the monies to be paid for the redemption or purchase of any land tax which may be redeemed or purchased by the said commissioners, and of the expenses of the said commissioners in or relating to such purchase or redemption, and in the discharge of any incumbrances or burthens which now or hereafter are or may be charged upon or affect any of the said lands or other property and subjects of the crown to which this Act relates.

12. Sums not immediately wanted, to be invested in the Public Funds.—It shall be lawful for the said commissioners for the time being of his Majesty's woods, forests, land revenues, works, and buildings to cause any sums which shall be received for or in respect of any sales or exchanges of any of the lands or other property or subjects of the crown to which this Act relates, and which may not be immediately wanted for the purposes to which the same are hereby made applicable, to be laid out in the meantime in the purchase of three pounds per centum consolidated bank annuities, or three pounds per centum reduced bank annuities, in the name of the Treasury, in which name the Bank of England are hereby authorized and required to permit transfers to be made of the annuities to be so purchased, and such transfers shall be accepted by the said commissioners of his Majesty's woods, forests, land revenues, works, and buildings in the name and on behalf of the Treasury.

13. Dividends of Stock and Annuities to be placed by Bank of England to credit of the Commissioners, and to be applied by them as Income of Crown Lands in Scotland.—The amount of the dividends of the stocks and annuities to be purchased as last aforesaid shall from time to time, as the said dividends shall become due, be placed by the Bank of England to the credit of the said commissioners of his Majesty's woods, forests, land revenues, works, and buildings in their account with the Bank; and so much of the dividends as shall have become due in respect of stocks purchased with moneys which shall have arisen from the sale or exchange of any of the lands or other property and subjects of the crown to which this Act relates shall be applied and disposed of by the said commissioners in the same manner and for the same purposes as and considered in all respects as part of the annual income of the lands and other property and subjects of the crown in Scotland.

14. Treasury may sell out all or any such Stocks or Annuities when expedient, &c.—When and so often as it shall be necessary or expedient to raise by sale of any of the stocks or annuities so to be purchased as aforesaid any sum of money for the purposes to which monies to be received under the authority of this Act from sales or exchanges of any of the lands and other property and subjects of the crown are hereby respectively made applicable, it shall be lawful for the Treasury to sell out all or any part of the said stocks or annuities; and the sums raised by the sale of the said stocks and annuities shall be paid into the Bank of England, and be placed to the credit of the said commissioners of his Majesty's woods, forests, land revenues, works, and buildings, to be applied and disposed of by the said commissioners in the same manner and for the same purposes as and considered in all respects as part of the sums to be received under the authority of this Act for or in respect of any sales or exchanges of any of the lands and other property and subjects of the crown in Scotland.

15. Transfer of Stocks sold.—All sums of stock which shall be sold by the Treasury under the provisions herein-before contained, may be transferred by any person to be appointed by them for that purpose by any letter of attorney attested by two or more credible witnesses; and the Bank of England shall and they are hereby authorized and required to permit all such transfers to be so made.

16. Application of the Annual Income of the Lands to which this Act relates, &c.—The annual income of all the said lands and other property and subjects of the crown to which this Act relates, and all sums received in respect of feus, leases or otherwise, for or in respect of the said lands and other property and subjects (except from sales or exchanges), shall be applied in manner following; (that is to say,) in the first place, in payment of the costs, charges, and expenses attending the management of the said lands and other property and subjects of the crown; in the next place, in pay-

ment and discharge of any annual sum or sums of money or any pensions already lawfully charged or to be charged thereon respectively, and in the payment of any other principal sum and the interest of any principal sum or sums of money already or which may be hereafter lawfully charged upon the said lands and other property and subjects; and, subject to the applications aforesaid, the said annual income shall be payable and paid to the King's Majesty.

17. Commissioners may keep Accounts with any of the Chartered Banks of Scotland.—The said commissioners for the time being of his Majesty's woods, forests, land revenues, works, and buildings may, so long as they shall find it necessary so to do, keep an account with any of the chartered banks in Scotland; and the said commissioners, observing the rules and regulations hereby or by the said Act passed in the tenth year of his late Majesty King George the Fourth prescribed, shall not be answerable, either collectively or individually, for any money which they the said commissioners shall have paid into the said banks, or any of them, or any branch thereof.

[*S.* **18** *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).]

19. Retour Duties, &c. shall no longer be received by Officers of Courts of Justice, &c. but by Collectors especially appointed, who shall be entitled to the Fees heretofore paid.—And whereas certain retour duties, casualties, and other duties and rents pertaining to the land revenues of the crown and prince and steward of Scotland, have hitherto been received by the officers of the courts of justice, or by the sheriffs of the counties, shires, or stewartries of Scotland respectively, and it will be most convenient that the same should be collected and received by the agents or collectors thereof appointed or to be appointed under the provisions of this Act: Be it therefore further enacted, that when and so soon as such agents or collectors shall be appointed, such retour duties, casualties, and other duties and rents, pertaining to the land revenues of the crown and prince and steward of Scotland, shall no longer be collected by the officers of the courts of justice, or by the sheriffs or other officers who have heretofore collected and received them, but shall be collected and received by the collectors to be for that purpose appointed; and such collectors shall be entitled to demand and receive the same fees which the said officers of the courts of justice, sheriffs, or other officers have heretofore been entitled to demand and receive upon the payment of any of the said retour duties, casualties, or other duties or rents respectively.

20. This Act shall extend to the Lands, &c. of the Prince and Steward of Scotland; the Income whereof shall be applied as at present.—All the powers and provisions in this Act contained shall extend, and be held and construed to extend, to the lands, revenues, and other property and subjects of the prince and steward of Scotland; the annual income thereof, or the monies to arise by the sale or other disposition thereof, to be applied and appropriated by the said commissioners of his Majesty's woods, forests, land revenues, works, and buildings to and for such purposes and in such manner as the same are now by law applicable.

21. Saving of Rights.—Provided always, that nothing herein contained shall extend or be construed to extend to abridge or interfere with any rights of his Majesty, or of the lord high treasurer or the commissioners of his Majesty's Treasury, or the chancellor of the Exchequer, for the time being, or any grantee of the crown, in respect of any appointment lawfully made by his Majesty or the said lord high treasurer or commissioners, or the chancellor of the Exchequer, or such grantee, previously to the passing of this Act.

22. Commissioners may sue and be sued in the name of the Lord Advocate—Service of Process.—It shall and may be lawful for the said commissioners of his Majesty's woods, forests, land revenues, works, and buildings to sue and be sued in any court of law in Scotland in the name of his Majesty's lord advocate of Scotland for the time being; and service of any legal proceedings upon the said lord advocate, and an intimation of such service to the said commissioners by letter addressed to the first commissioner of woods, forests, land revenues, works and buildings, London, and put into the General Post Office, shall be deemed and held to be sufficient service on the said commissioners, any law or practice to the contrary notwithstanding.

SCHEDULE to which this Act refers.

FORM of CONVEYANCE on SALES by the Commissioners of His Majesty's Woods, Forests, Land Revenues, Works, and Buildings.

To all and sundry to whose knowledge these presents shall come: Know ye, that we whose names are inserted in the testing clause of these presents, two of the commissioners of his Majesty's woods, forests, land revenues, works, and buildings, on behalf of his Majesty, and under the authority of an Act passed [here insert the title of this Act], in consideration of the sum of paid by E.F. [here describe mode of payment], have sold, alienated, and in feu farm disponed, as we by these presents, on behalf of his Majesty, sell, alienate, and in feu farm dispone, from his Majesty, his heirs and successors, to and in favour of the said E.F., his heirs and assignees whomsoever, heritably and irredeemably, all and whole the lands of [here describe the lands or other subjects sold], [if teinds are sold without lands, here omit description of lands, and insert] all and whole the teinds, parsonage and vicarage, of the lands of pertaining to [here insert name of owner], lying in the parish of and sheriffdom of , with all burdens imposed or to be imposed thereon, lying within the parish of and shire of , [and if the teinds, mills, and fishings be also purchased with the lands, add [together with the whole teinds, both great and small, as well parsonage as vicarage thereof, with the mill of , with the multures, sequels, and others thereto pertaining, and with the right of salmon-fishing in the river , so far as the said river runs through or is bounded by the said lands [here insert any burdens, conditions, or reservations stipulated], to be holden and to hold the whole lands [if teinds only are conveyed, insert "teinds"] and others above specified by the said E.F. and his foresaids, of his Majesty, his heirs and successors, superiors of the same, in free blench farm, fee, and heritage for ever, giving therefor yearly a penny Scots money at Whitsunday yearly, if asked only in name of blench farm. In witness whereof we and , two of the commissioners foresaid, have hereunto set our hands this day eighteen hundred .

I.K. witness. A.B.
G.H. witness. C.D.

FORM of RECEIPT and DECLARATION.

Received by us, two of the commissioners of his Majesty's woods, forests, land revenues, works, and buildings on behalf of his Majesty, from E.F. the sum of , being the consideration money paid by him for the feu duty [or any other duty specified] payable to his Majesty for and furth of the lands of pertaining to the said E.F.; of which feu duty [or other duty] the said E.F., his heirs and assigns, are hereby for ever discharged: Hereby declaring, that in any renewal of the investiture of the said lands on behalf of his Majesty, this shall be a sufficient warrant to the barons of the Court of Exchequer in Scotland, and all others, to grant such renewed investiture in the form of a blench holding.

Witness our hands this day of .

I.K. witness. A.B.
G.H. witness. C.D.

CHAPTER LXXVI.

THE ROYAL BURGHS (SCOTLAND) ACT, 1833 (*Short Titles Act*, 1896).

AN ACT to alter and amend the Laws for the Election of the Magistrates and Councils of the Royal Burghs in Scotland.[1] [28th August 1833.]

[1] *This Act is rep.* 15 *&* 16 *Vict. c.* 32, *s.* 10, *in so far as the same or any part thereof is inconsistent with the provisions of that Act.*

[*Preamble.*]

[*Ss.* **1–3** *rep.* 54 *&* 55 *Vict. c.* 67 (*S.L.R.*). *S.* **4** *rep.* 19 *&* 20 *Vict. c.* 58, *s.* 32. *S.*

3 required the chief magistrate to appoint an advocate or a writer to the signet or a solicitor of supreme courts or a procurator in the inferior courts of not less than three years standing respectively as assessor to consider claims to enrolment.]

5. Lists to be corrected annually—Extracts may be obtained.—[1] Each town clerk shall, in every succeeding year, keep his list or roll of electors in the town clerk's office, or other place appointed for keeping the records of such burgh, accessible, without fees, at all seasonable hours, from the first to the tenth day of August; . . . and each town clerk in the burghs contained in the said recited Act shall in like manner correct and complete his list of electors, on or before the sixteenth day of September, by removing therefrom the names of such as may have died, and adding the names of those who may have been inserted in the register appointed by the said recited Act since it was made up in the previous year, in respect of premises situate within the royalty of any such burgh; and all persons interested shall be entitled to extracts from the said lists, paying the town clerk for every extract at the rate of sixpence for every seventy-two words contained therein.

[1] *So much of this Act as enacts that the town clerk of each burgh shall on or before the sixteenth of September in each year make up and complete the list or roll of persons entitled to vote in the election of the common council of the burgh, rep.* 19 & 20 *Vict. c.* 58, *s.* 32. *S.* 5 *in part rep.* 54 & 55 *Vict. c.* 67 (*S.L.R.*).

[*S.* **6** *rep.* 54 & 55 *Vict. c.* 67 (*S.L.R.*).]

7. Certain Burghs to be divided into Wards and Districts.—The several burghs contained in the schedule marked (C.) to this Act annexed shall be divided into wards or districts, which, together with the number of councillors to be chosen by each such ward or district, shall be fixed and ascertained by the commissioners named and appointed by his Majesty to inquire into and report upon the condition of the several burghs and towns of Scotland by virtue of a commission dated on the fifteenth day of July in the present year; and such commissioners shall have regard to its being the purport and meaning of this Act that the number of wards shall be such that each ward shall, at the first election to be made under this Act, choose, as nearly as may be, the number of six councillors, and at the subsequent annual elections in each succeeding year the number of two councillors; and the said commissioners shall, upon such division being made and completed, report the same to his Majesty's privy council, who shall cause such report to be published by royal proclamation in the gazette; and the number and limits of such districts, and the number of councillors to be elected by each such district, being so fixed, reported, and published, shall be held and taken to be a part of this Act, in the same manner and to the same effect as if the same were particularly set forth and enacted therein.

8. First Election of Councillors in Burghs contained in Schedule (C.)—(With and under the exceptions herein-after provided) upon the first Tuesday of November next the electors qualified and entered in the list or roll made up as aforesaid shall, in each of the said royal burghs not contained in schedule (F.) to this Act annexed, choose from among such of their own number as either reside within the boundaries assigned to such burgh by the said recited Act, or as may carry on business or reside within the royalty thereof, such a number of councillors as by the set or usage of each burgh respectively at present constitutes the common council of such burgh, or where such number admits of variation, then the smallest number which may by the existing set or usage constitute a full council in any such burgh, in manner following; that is to say, in all such burghs as are contained in the said schedule (C.) and divided into wards or districts as aforesaid, the qualified electors of each district whose names shall be in the said list or roll of such electors shall, at some place or places to be appointed for each such ward or district, of which intimation shall be made by notice affixed on the church doors of the several parishes of such burgh ten days at least previous to such election, proceed to elect, from and among the persons contained in the list or roll of the whole electors for such burgh, as many councillors for such burgh, being either resident or personally carrying on business as herein-before provided, as shall, by the report of the commissioners aforesaid, and the proclamation thereof aforesaid, have been fixed and ascertained as the number of councillors to be elected in each such ward, by . . . poll, to be taken in the presence of the provost or chief or senior magistrate of such burgh, or of a legal substitute or substitutes to be appointed by him to officiate

and preside at the polling place or polling places in each such ward or district from among the persons of the law described and qualified as aforesaid in relation to the assessor to be appointed by any chief magistrate to judge of the claims of enrolment to be made as aforesaid; and the town clerks of such burghs, or the persons who may be appointed by the provost or chief magistrate thereof to officiate as poll clerks in the several wards thereof, which persons such provost or chief magistrate is hereby authorised to appoint, shall each have with him a certified copy of that part of the foresaid list or roll which contains the names of the voters qualified in respect of property situate in each such district, according to which the votes shall be taken; . . . . . .

S. 8 *in part rep.* 35 & 36 *Vict. c.* 33, *s.* 32 (*temp.*), *and* 54 & 55 *Vict. c.* 67 (*S.L.R.*).

[*S.* 9 *rep.* 54 & 55 *Vict. c.* 67 (*S.L.R.*).]

10. Ascertainment and declaration of result of Poll in Burghs contained in Schedule (C.).—At all such elections of councillors for the burghs contained in the said schedule (C.) . . . the provost or chief or senior magistrate, . . . on the next lawful day . . . between the hours of twelve and two, and within the town house or other public building of such burgh, . . . with the assistance of the town clerk, and such other persons as he may think fit to employ, shall cast up the votes given, and shall declare upon whom the election has fallen by the majority of votes (making a double return in any case where the votes shall be equal), and shall forthwith give, or cause to be given, notice in writing to the several persons elected of such their election, and require them severally to appear in the town hall or other public room aforesaid, on the second lawful day after such election, when they shall severally declare whether they accept or decline accepting the office of councillor; and if any such person shall be found to have been elected by more than one of the said wards or districts, he shall thereupon declare for which ward he intends to serve; and wherever this shall occur, or where there shall be a double return for any ward, or where any person elected shall decline accepting, then and in all such cases the presiding magistrate shall immediately appoint a new election of a councillor or councillors in place of him or them so chosen elsewhere and so declining at the distance of not more than four nor less than two days, and affix notices of the day so appointed on the church doors of the burgh; and such election shall be proceeded in in all respects in the same manner in which the first election in the said wards or districts, and the taking the poll, casting up the votes, and declaring the result, is herein-before directed to proceed, until the council of such burgh shall be completed.

S. 10 *in part rep.* 35 & 36 *Vict. c.* 33, *s.* 32 (*temp.*), *and* 54 & 55 *Vict. c.* 67 (*S.L.R.*).

11. First Election of Councillors in Burghs not contained in Schedules (C.) or (F.).—Upon the said first Tuesday of November next the qualified electors of all the said royal burghs, not contained in the said schedules (C.) or (F.), shall . . . choose from among their own number such and the like number of councillors being resident or personally carrying on business, as herein-before provided, as by the set or usage of such burghs respectively at present constitutes the common council of such burgh, or, where this is variable, the smallest number constituting a full council, and . . . the provost or chief or senior attending magistrate of the burgh, who shall preside at such election, . . . shall declare upon whom the election has fallen by the majority of votes; *and the provost or chief or senior magistrate shall forthwith give or cause to be given notice in writing to the several councillors elected of such their election, and call upon them severally to appear in the town hall or other public room aforesaid on the second lawful day after such election, when they shall severally declare whether they accept or decline accepting the office of councillor;* . . . [*Rep.* 35 & 36 *Vict. c.* 33, *s.* 32 (*temp.*).]

S. 11 *in part rep.* 35 & 36 *Vict. c.* 33 (*temp.*), *and* 54 & 55 *Vict. c.* 67 (*S.L.R.*).

12. *Election of Councillors, &c. in Burghs contained in Schedule (F.).—Nothing in this Act contained shall be held to affect or apply to the several burghs contained in schedule (F.) to this Act annexed; but the election of councillors and magistrates in all the burghs contained in the said schedule (F.) shall proceed and be conducted in the way and manner hitherto practised in such burghs, and as if this Act had not been passed.* [*Rep.* 31 & 32 *Vict. c.* 108, *s.* 3.]

13. Persons elected who fail to declare Acceptance shall be held to decline Office.—In all the cases of election herein-before directed, if any person elected as councillor shall fail to attend on the day appointed for declaring his acceptance, he shall be held to have declined accepting the said office, unless he then transmit to the meeting a sufficient written explanation, signed by himself or his agent, of the cause of his absence, and intimating his acceptance.

14. None but Burgesses shall be entitled to be Councillors.—No person shall be entitled to be received and inducted as councillor who shall not, . . . be entered a burgess of the burgh for which he is so elected, wherever there is any body of burgesses in any such burgh; . . . Provided always, that no merely honorary burgess shall be entitled to be so inducted, and that any person so elected shall be forthwith entitled to be entered as a burgess on payment of the ordinary fees.

S. 14 *in part rep.* 23 & 24 *Vict. c.* 47, *s.* 1, *and* 54 & 55 *Vict. c.* 67 (*S.L.R.*).

15. Elections of Councillors in succeeding years.—Upon the first Tuesday of November in every year, the electors in such burghs shall in like manner . . . elect, in manner herein-before prescribed in relation to the first election under this Act, one third part, or as nearly as may be one third part, of the council of such burghs, in the place of the third thereof who shall, as herein-after directed, go annually out of office, the wards or districts into which the burghs contained in the said schedule (C.) are divided then electing such number of councillors as by the said royal commission such wards or districts shall be directed to elect at such annual elections subsequent to to the first election.

S. 15 *rep.* 35 & 36 *Vict. c.* 33, *s.* 32 (*temp.*), *so far as inconsistent with that Act, and in part rep.* 54 & 55 *Vict. c.* 67 (*S.L.R.*).

16. One third part of the Council to go out of office annually.—Upon the said first Tuesday of November in every year, one third, or a number as near as may be to one third, of the whole council of each such burgh shall go out of office; . . . and the third of the councillors so annually going out of office shall always consist of the councillors who have been longest in office: Provided always, that any councillors so going out of office shall be capable of being immediately re-elected.

S. 16 *in part rep.* 53 & 54 *Vict. c.* 51 (*S.L.R.*).

17. Elections of Provost and other Officers.—The councillors of all such burghs not contained in schedule (F.) to this Act annexed respectively so elected and accepting shall, upon the third lawful day after the election of the whole number of such councillors in the present year, assemble in the town hall or other usual public place of meeting within such burgh, and shall there, by a plurality of voices (the councillor who had the greatest number of votes at the election of councillors having a casting or double vote in case of equality), elect from among their own number a provost or chief magistrate, the number of bailies fixed by the set or usage of such burgh, a treasurer, and other usual and ordinary office bearers now existing in the council by the set or usage of each such burgh, and shall also elect the managers of any charitable or other public institution existing in or connected with such burgh, the appointment of the managers to which is at present vested in the magistrates and town council of such burgh.

[*S.* **18** *rep.* 35 & 36 *Vict. c.* 33, *s.* 32 (*temp.*).]

19. Abolition of certain Official Titles and Functions in Councils.—(Except as herein-after excepted) the offices and titles of deacon, and of convener and dean of guild, and of old provost and old baillie, as official and constituent members of any town council, shall, after the completion of the first elections under the provisions of this Act, cease and determine; and no distinction shall afterwards be kept up or recognized between trades baillies and merchant baillies, or trades councillors and merchant councillors, in any such council: Provided always, that (except as herein-after excepted) the duties and functions heretofore performed by the dean of guild in such council, or in any dean of guild court of such burgh, shall, in all the burghs where there now is such an officer, be performed by a member of the council to be elected, in manner herein-before provided, by the majority of councillors.

20. Election of certain Trustees and Managers.—Where any trust, management, or direction is by the terms of any public or local Act, or of any charter or deed of

foundation, or other deed, conferred on any members of the council under the denomination of old provost, old baillie, or old dean of guild, or of merchant or trades baillies or merchant or trades councillors respectively, the town councils to be named and elected in terms of this Act shall, immediately after their own acceptance and induction into office, nominate and elect from their own body such a number of persons to be such trustees, managers, or directors, as are by such Acts, charters, or deeds appointed to those offices under the said denominations; and the whole powers and functions now belonging to the said offices of trustees, managers, or directors shall belong to and be as fully vested in the person so elected, as if they had possessed the denominations used in the said Acts, charters, or deeds.

21. Saving as to rights of Crafts, Trades, and Guildries to elect their own Officers.—Nothing herein contained shall be held or construed to impair the right of any craft, trade, convenery of trades, or guildry, or merchants house or trades house, or other such corporation, severally to elect their own deacons or deacon convener, or dean of guild or directors, or other lawful officers, for the management of the affairs of such crafts, trades, conveneries of trades, or guildries, merchants or trades houses, or other such corporations; but, on the contrary, the said several bodies shall be in all cases entitled to the free election in such form as shall be regulated by them of the said several office bearers and other necessary officers for the management of their affairs, without any interference or control whatsoever on the part of the town council or any member thereof.

22. Certain Deans of Guild and Deacon Conveners shall be Members of Councils ex officio.—The persons elected (or to be elected) as herein-before provided to the offices of dean of guild and deacon convener or convener of trades by the convenery and guild brethren respectively in the city of Edinburgh, and to the offices of dean of guild and deacon convener by the merchants house and trades house respectively in the city of Glasgow, shall in virtue of their said elections by the said guild brethren, convenery, merchants house and trades house respectively, be constituent members of the town councils of the said cities, and shall enjoy all the powers and perform all the functions now enjoyed or performed by such office bearers in these cities; and in like manner the persons elected (or to be elected) to the offices of deans of guild by the several guildries of the city of Aberdeen and the towns of Dundee and Perth shall, in virtue of such their elections, be constituent members of the town councils of the said city and burghs respectively, and shall as such enjoy all the powers and perform all the functions now exercised or enjoyed by the existing deans of guild in the said city and burghs respectively; and the registered electors, qualified as herein-before provided, in the said cities and burghs of Edinburgh, Glasgow, Aberdeen, Dundee, and Perth, shall, in November in the present year, and in all future years, elect only such a number of councillors as, with the addition of the said deans of guild and conveners to be so elected as aforesaid, make up the number of councillors now existing in the said several cities and burghs; and the councillors so elected in the said cities and burghs of Edinburgh, Glasgow, Aberdeen, Dundee, and Perth, shall not at the subsequent election of magistrates and office bearers elect any other persons to fill the offices or perform the functions of deans of guild or conveners, but these offices shall be held and exercised, in the said councils and otherwise, by the persons so elected as aforesaid in the said cities and burghs of Edinburgh, Glasgow, Aberdeen, Dundee, and Perth respectively, and by no other persons.

23. Certain Trusts and Managements shall be continued in persons elected by Crafts, Trades, and Guildries.—Where any trust, management, or direction of any charitable or other institutions is vested in any number of deacons, or in a deacon convener, or convener of trades, or in any dean of guild, or other office bearers elected or hereafter to be elected by the several crafts, trades, guildries, or merchants or trades houses, then and in all such cases the persons so elected as such deacons, conveners, deans of guild, or other officers shall always be and continue trustees and managers of such charities or institutions, whether such persons shall hereafter be members of council or not; and the town councils shall in no such case have power to elect from their own body any other trustees or managers in place of such deacons, conveners, deans of guild, or other officers: Provided always, that in any burgh in which trades councillors, or merchant councillors are or may be ex officio trustees or directors of any such institutions or charities, the convenery or trades house and the guildry or merchants house in

such burghs shall elect an equal number from their own bodies respectively to be such trustees or directors, anything herein contained to the contrary notwithstanding.

24. Supply of Vacancies caused by Magistrates going out of Office.—When any magistrate or office bearer (other than the provost or chief magistrate and treasurer) shall be in the third of the council going out of office, the place of such magistrate or office bearer shall be supplied by election by the council as soon as the full number thereof shall have been completed by the annual election of the third then hereby directed to take place, the said election to be made by plurality of voices, and the chief or senior attending magistrate to have a double or casting voice in case of equality: Provided always, that the provost or chief magistrate and the treasurer shall always remain in office for the period of three years, and that they, as well as all the other magistrates or office bearers, shall at all times be capable of being re-elected.

25. Supply of Vacancies in Council, &c. occurring within the year.—If any vacancy shall in the course of the year occur in the council or magistracy or office bearers of any such burgh by death, disability, or resignation, the same shall be filled up ad interim by the remaining members of the council, by election, as herein-before provided, at a meeting to be called on five days notice by the town clerk by intimation in writing to each of such remaining members of the council; but any councillor, magistrate, or office bearer so elected ad interim shall go out of office on the first Tuesday of November next ensuing his election, and the vacancy thereby occurring shall be supplied at the next annual election of councillors and magistrates or office bearers in such burgh; provided that, if the vacancy shall have occurred in any burgh contained in the said schedule (C.), such vacancy shall at such annual election be supplied by the ward of such burgh by which the councillor who had died or resigned, or been disabled, had been elected, and which shall in this case elect an additional councillor, unless the party so dying or disabled would then have gone out of office as one of the third hereby directed to retire.

26. Councillors, &c. may resign.—Any person elected and accepting the office of councillor, magistrate, or other office bearer in any town council, under the provisions of this Act, may resign his said office at any time, upon giving not less than three weeks notice of such his intention by a written intimation to the town clerk or chief or senior magistrate; and in the event of such resignation being intimated as to be made at the period of the annual retirement of one third of the council, such additional number of councillors shall then be elected as may be necessary to complete the council: Provided always, that no fine or other penalty shall be exigible from any person either declining to accept after his election or subsequently resigning his office.

27. Performance of Duties under this Act in Burghs having no Legal Councils.—Where any royal burgh shall, in consequence of the decision of a court of law or otherwise, be without any legal council or magistracy at the time when this Act comes into operation, or at any future time, all the functions directed by this Act to be performed by the existing magistrates or councils shall be performed by one or more of the managers who may, by any lawful appointment, be then in the actual administration of the affairs of any such burgh.

28. No Councillor, &c. shall hold the Office of Town Clerk, &c.—No councillor, nor the partner in business of any councillor, shall be capable of holding the office of town clerk in any such burgh; and no town clerk shall, during the period he shall hold that office, interfere directly or indirectly in the election of the magistrates or town council of any such burgh.

29. Town Clerk shall give Notices as to Elections.—All the notices or intimations hereby directed or required to be given or made in any such burgh of any meetings or proceedings to be held or had in the matter of the elections of or respecting such burgh shall, where not directed to be otherwise given, be given or made by the respective town clerks thereof.

[*S.* **30** *rep.* 54 *&* 55 *Vict. c.* 67 (*S.L.R.*).]

31. Powers of Magistrates and Councils elected under this Act.—The magistrates and council and office bearers to be elected under the provisions of this Act shall in all respects stand in relation to the administration of the affairs and property of such burghs, or of property under the care and management of such burghs, in the same situation in which the magistrates and council and office bearers of such burghs did

stand previous to the passing of this Act; and the magistrates and council and office bearers to be elected under the provisions of this Act shall have such and the like jurisdiction, and the same rights and powers of administration of the property and affairs of the burgh, and of making all usual and necessary appointments, as heretofore lawfully belonged to and was exercised by their predecessors in office; any thing in the set, usage, or custom of any such burgh to the contrary notwithstanding.

32. Magistrates and Councils shall annually make up a state of their Affairs.—The existing magistrates and council in all royal burghs shall, on or before the fifteenth day of October in all future years, make up a distinct state of their affairs, subscribed by the chief or senior magistrate, town clerk, and treasurer, containing an account of all the funds, properties, and revenues in their administration, and of all their transactions in relation to such funds, properties, and revenues, since they came into office; which amount shall be brought down as nearly as may be to the said fifteenth day of October, and shall be kept in the town clerk's or treasurer's office, for the inspection of any of the registered electors, from the said fifteenth day of October down till the time of the election; and a full and distinct abstract of the said account, with a balance sheet, containing all necessary particulars, shall be printed and published by the said magistrates on or before the twentieth day of the said month of October.

33. Councillors and Magistrates shall not be liable for Debts of the Burgh, &c.—No councillor or magistrate elected and accepting under the provisions of this Act shall incur by such election or acceptance any other responsibility for the debts of the burgh, or the acts of his predecessors in office, than might have attached to him as a burgess or inhabitant independently of such election.

34. Penalty for Offences against this Act.—If any magistrate, councillor, town clerk, sheriff, or other person shall wilfully contravene or disobey the provisions of this Act, he shall be liable to be sued for such offence in the Court of Session by any person aggrieved for the penal sum of three hundred pounds; which sum, or any smaller sum which may be assessed by the jury in any such action, the defender, upon conviction, shall pay to the pursuer with full costs of suit: Provided always, that every such action shall be raised within four calendar months after the cause of action shall have arisen; and that notice in writing shall be given to the defender at least one calendar month before raising the same: Provided also, that any such defender against whom judgment shall have been once recovered in such action shall be entitled to plead such judgment as a bar to any other action which may be brought against him for the same matter or thing; and such other action being thereupon dismissed, such defender shall recover his full costs of suit.

35. Misnomers, &c. not to vitiate Proceedings.—No misnomer or inaccurate description of any person or place in any writing made in the form of any schedule to this Act annexed, or in any list or register or notice or other writing made under authority of this Act, shall in any way prevent or abridge the operation of this Act; provided that such person or place shall be so designated in such writing, list, register, or notice, as to be commonly understood.

36. Burgher Oath not to be taken.— . . . The oath termed the burgher oath shall in no case hereafter be required to be taken in any burgh.

S. 36 *in part rep.* 35 *&* 36 *Vict. c.* 33 (*temp.*).

37. Irregularity in the election of Councillors only to affect themselves.—No irregularity or nullity in the election of any councillor or magistrate shall in any case after the passing of this Act annul or affect the election of other councillors or magistrates not liable to the same grounds of objection, but those particular elections only in which such irregularity or nullity shall have occurred.

[*S.* **38** *rep.* 35 *&* 36 *Vict. c.* 33, *s.* 32 (*temp.*).]

SCHEDULES to which the foregoing Act refers.

[*Scheds.* (*A.*) *&* (*B.*) *rep.* 54 *&* 55 *Vict. c.* 67 (*S.L.R.*).]

SCHEDULE (C.)

EDINBURGH.	PERTH.
GLASGOW.	DUNFERMLINE.
ABERDEEN.	DUMFRIES.
DUNDEE.	INVERNESS.

[*Scheds.* (*D.*) *&* (*E.*) *rep.* 54 *&* 55 *Vict. c.* 67 (*S.L.R.*).]

SCHEDULE (*F.*)

DORNOCH.	*WESTER ANSTRUTHER.*
NEW GALLOWAY.	*KILRENY.*
CULROSS.	*KINGHORN.*
LOCHMABEN.	*KINTORE.*
BERVIE.	

Sched. (*F.*) *rep.* 31 *&* 32 *Vict. c.* 108, *s.* 3.

CHAPTER LXXVII.

THE PARLIAMENTARY BURGHS (SCOTLAND) ACT, 1833 (*Short Titles Act*, 1896).

AN ACT to provide for the Appointment and Election of Magistrates and Councillors for the several Burghs and Towns of Scotland which now return or contribute to return Members to Parliament and are not Royal Burghs.[1]

[28th August 1833.]

[1] *This Act is rep.* 15 *&* 16 *Vict. c.* 32, *s.* 10, *in so far as the same or any part thereof is inconsistent with the provisions of that Act.*

[*Preamble recites* 2 *&* 3 *Will.* 4, *c.* 65.]

1. NUMBER OF COUNCILLORS AND MAGISTRATES IN CERTAIN BURGHS.—There shall be in each of the several burghs and towns of Paisley, Greenock, Leith, and Kilmarnock the number of sixteen councillors, whereof one shall be provost, four shall be baillies, and one a treasurer; and in each of the several burghs and towns of Falkirk, Hamilton, Peterhead, Musselburgh, and Airdrie there shall be the number of twelve councillors, whereof one shall be provost, and three baillies, and one a treasurer; and in each of the several burghs or towns of Port Glasgow, Cromarty, and Portobello there shall be the number of nine councillors, whereof one shall be provost, and two baillies; and in the burgh of Oban there shall be the number of six councillors, whereof two shall be baillies.

[*S.* **2** *rep.* 54 *&* 55 *Vict. c.* 67 (*S.L.R.*).]

3. CERTAIN BURGHS TO BE DIVIDED INTO WARDS AND DISTRICTS.—The said burghs or towns of Paisley, Greenock, Leith, and Kilmarnock shall be divided into wards or districts, which, together with the number of councillors to be chosen by each such ward or district, shall be fixed and ascertained by the commissioners named and appointed by his Majesty to inquire into and report upon the condition of the several burghs and towns of Scotland by a commission dated on the fifteenth day of July in this present year; and such commissioners shall have regard to its being the purport and meaning of this Act that the number of wards shall be such that each ward shall, at the first election to be made under this Act, choose, as nearly as may be, the number of three councillors, and at the subsequent annual elections in each succeeding year the number of one councillor; and the said commissioners shall, upon such division being made and completed, report the same to his Majesty's privy council, who shall cause such report to be published by royal proclamation in the gazette; and the number and

limits of such districts, and the number of councillors to be erected by each such district, being so fixed, reported, and published, shall be held and taken to be a part of this Act, in the same manner and to the same effect as if the same were particularly set forth and enacted herein.

[*Ss.* **4**–**9** *(relating to mode of election of councillors in burghs to which this Act applies) rep.* 54 *&* 55 *Vict. c.* 67 (*S.L.R.*). *S.* **9** *provided that the provost or other chief magistrate was to give notice to the elected councillors of their election, and to call upon them to appear at the town hall on the second lawful day after the election and declare whether they accept or decline the office of councillor.*]

10. Persons elected who fail to declare Acceptance shall be held to decline Office.—In all the cases of election herein-before directed, if any person elected as councillor shall fail to attend on the day appointed for declaring his acceptance, he shall be held to have declined accepting the said office, unless he then transmit to the meeting a sufficient written explanation, signed by himself or his agent, of the cause of his absence, and intimating his acceptance.

11. Election of Councillors in succeeding years.—Upon the first Tuesday of November in every year the electors in such burghs and towns respectively shall in like manner, . . . elect, . . . one third part or as nearly as may be one third part of the council of each such burgh or town, in the place of the third thereof who shall, as herein-after directed, go annually out of office, the wards or districts into which the burghs or towns divided into wards or districts are divided then electing such number of councillors as by the said royal commissioners such wards or districts shall be directed to elect at such annual elections.

S. 11 *in part rep.* 35 *&* 36 *Vict. c.* 33, *s.* 32 (*temp.*), *and* 54 *&* 55 *Vict. c.* 67 (*S.L.R.*).

12. One third part of the Council to go out of Office annually.—Upon the said first Tuesday of November in every year, one third or a number as near as may be to one third of the whole council of each such burgh shall go out of office; . . . . . the third of the councillors so annually going out of office shall always consist of the councillors who have been longest in office: Provided always, that any councillors so going out of office shall be capable of being immediately re-elected.

S. 12 *in part rep.* 53 *&* 54 *Vict. c.* 51 (*S.L.R.*).

13. Election of Provost and other Officers in Paisley, &c.—The councillors of the said burghs or towns of Paisley, Greenock, Leith, and Kilmarnock respectively so elected and accepting shall, upon the third lawful day after the election of the whole number of such councillors in the present year, assemble in the town hall or other usual public place of meeting within such burgh or town, and shall there by a plurality of voices, (the councillor who had the greatest number of votes at the election of councillors having a casting or double vote in case of equality), elect from among their own number a provost or chief magistrate, four baillies, and a treasurer.

14. Election of Provost and other Officers in Falkirk, &c.—The councillors of the said burghs or towns of Falkirk, Hamilton, Peterhead, Musselburgh, and Airdrie respectively so elected and accepting shall, upon the third lawful day after the election of the whole number of such councillors in the present year, assemble in the town hall or other usual public place of meeting within such burgh or town, and shall there, by a plurality of voices (the councillor who had the greatest number of votes at the election of councillors having a casting or double vote in case of equality), elect from among their own number a provost, three baillies, and a treasurer.

15. Election of Provost and Baillies in Port Glasgow, &c.—The councillors of the said burghs or towns of Port Glasgow, Cromarty, and Portobello respectively so elected and accepting shall, upon the third lawful day after the election of the whole number of such councillors in the present year, assemble in the town hall or other usual public place of meeting within such burgh or town, and shall there, by a plurality of voices (the councillor who had the greatest number of votes at the election of councillors having a casting or double vote in case of equality), elect from among their own number a provost and two baillies.

16. Election of Baillies in Oban.—The councillors of the said burgh of Oban so elected and accepting shall, upon the third lawful day after the election of the whole

number of such councillors in the present year, assemble in the town hall or other usual public place of meeting within such burgh or town, and shall there, by a plurality of voices (the councillor who had the greatest number of votes at the election of councillors having a casting or double vote in case of equality), elect from among their own number two baillies.

17. Election of Managers of Charities, &c. of Burghs.—The councillors of the said several burghs or towns shall, in the like manner as they are herein-before directed to elect their magistrates, and at the same time, elect the managers of any charitable or other public institution existing in or connected with such burgh or town, the appointment of the managers of which is at present vested in the magistrates and town council of such burgh or town.

[*S.* **18** *rep.* 35 *&* 36 *Vict. c.* 33, *s.* 32 (*temp.*).]

19. Elections of certain Trustees and Managers.—Where any trust or management is, by the terms of any public or local Act, or of any charter or deed of foundation, or other deed, conferred on the present magistrates and council of any of the said burghs or towns, the magistrates and councils to be elected according to the provisions of this Act shall have the same powers and rights as such trustees, managers, or directors, as belong to the existing magistrates and councils; and where any such trust or management is conferred on any particular members of the present council or magistracy or office bearers of any such burgh or town, the town councils to be named and elected in terms of this Act shall immediately after their own acceptance and induction into office nominate and elect from their own body such a number of persons to be such trustees or managers as are, by such Acts, charters, or deeds, appointed to those offices under the said denominations; and the whole powers and functions now belonging to the said offices of trustees or managers shall belong to and be as fully vested in the persons so elected as if they had possessed the denominations used in the said Acts, charters, or deeds.

20. None but Burgesses shall be entitled to be Councillors.—In all burghs where there are burgesses no person shall be entitled to be received and inducted as councillor who shall not, previous to such induction, be entered a burgess of the burgh for which he is so elected; and each such person so elected shall produce, when he declares his acceptance, the evidence of his being such burgess; and his omission so to do shall be held to vacate his election in the same manner as if he had declined to accept: Provided always, that no merely honorary burgess shall be entitled to be so inducted and that any person so elected shall be entitled to be entered as a burgess on payment of the ordinary fees to the common good of the burgh.

21. Saving as to rights of Crafts, Trades, and Guildries to elect their own Officers.—Nothing herein contained shall be held or construed to impair the right of any craft, trade, or guildry severally to elect their own deacons or deacon convener or dean of guild for the management of the affairs of such crafts, trades, or guildries; but on the contrary the said several bodies shall, from and after the passing of this Act, be in all cases entitled to the free election of the said several office bearers and other necessary officers for the management of their affairs, without any interference or controul whatsoever on the part of the town council or any member thereof.

22. Supply of Vacancies caused by Magistrates going out of Office.—When any magistrate or office bearer (other than the provost or chief magistrate and treasurer) shall be in the third of the council going out of office, the place of such magistrate or office bearer shall be supplied by election by the council as soon as the full number thereof shall have been completed by the annual election of the third then hereby directed to take place; and the said election shall be made by plurality of voices; and the chief or senior attending magistrate shall have a double or casting voice in case of equality: Provided always, that the provost or chief magistrate and the treasurer shall always remain in office for the period of three years, and that they as well as all the other magistrates or office bearers shall at all times be capable of being re-elected.

23. Supply of Vacancies in Council, &c. occurring within the Year.—If any vacancy shall in the course of the year occur in the council or magistracy or office bearers of any such burgh or town by death, disability, or resignation, the same shall be filled up ad interim by the remaining members of the council by election, as herein-before provided, at a meeting to be called on five days notice by the town clerk by intimation

in writing to each of such remaining members of the council; but any councillor, magistrate, or office bearer so elected ad interim shall go out of office on the first Tuesday of November next ensuing his election, and the vacancy thereby occurring shall be supplied at the next annual election of councillors and magistrates or office bearers in such burgh; provided that if the vacancy shall have occurred in any of the said burghs or towns of Paisley, Greenock, Leith or Kilmarnock, such vacancy shall at such annual election be supplied by the ward of such burgh or town by which the councillor who had died or resigned or been disabled had been elected, and which shall in this case elect an additional councillor, unless the party so dying or disabled would then have gone out of office as one of the third hereby directed to retire.

24. Councillors, &c. may resign.—Any person elected and accepting the office of councillor, magistrate, or other office bearer in any town council under the provisions of this Act may resign his said office at any time, upon giving not less than three weeks notice of such his intention by a written intimation to the town clerk, or chief or senior magistrate; and in the event of such resignation being intimated as to be made at the period of the annual retirement of one third of the council, such additional number of councillors shall then be elected as may be necessary to complete the council: Provided always, that no fine or other penalty shall be exigible from any person either declining to accept after his election or subsequently resigning his office.

25. Performance of Duties under this Act in Burghs having no Legal Councils.—Where any such burgh or town shall, in consequence of the decision of a court of law or otherwise, be hereafter without any legal council or magistracy, all the functions directed by this Act to be performed by the existing magistrates or councils shall be performed by one or more of the managers who may by any lawful appointment be then in the actual administration of the affairs of any such burgh or town, and in default of any such managers by the sheriff or sheriff substitute of the county.

26. Election of Town Clerk.—It shall be lawful for the magistrates and council of any such burgh or town to elect a town clerk for such burgh or town for the period of one year, without prejudice to his re-election, and also without prejudice to the lawful right of any existing town clerk in any such burgh or town to hold his office of town clerk or clerk to the magistrates and council ad vitam aut culpam.

27. Town Clerk, &c. shall give Notices as to Elections—No Councillor, &c. shall hold the office of Town Clerk, &c.—All the notices or intimations hereby directed or required to be given or made in any such burgh or town of any meetings or proceedings to be held or had in the matter of the elections of or respecting such burgh or town shall, where not directed to be otherwise given, be given or made by the respective town clerks thereof; or in case there shall be no town clerk, the duty imposed on the town clerk by this Act shall be performed by the sheriff clerk of the county: Provided always, that no councillor, nor the partner in business of any councillor, shall be entitled to hold the office of town clerk in any such burgh or town; and that no town clerk shall directly or indirectly interfere in the election of magistrates or councillors for such burgh or town.

28. Where there is no Parish Church, Notices may be given at principal place of Worship.—Where there is no parish church within the burgh, the notices hereby required may be given at the principal place of public worship within the burgh.

[*S.* **29** *rep.* 54 *&* 55 *Vict. c.* 67 (*S.L.R.*).]

30. Powers of Magistrates and Town Councils under this Act.—The magistrates and town council to be elected for the said burghs or towns under the authority of this Act shall have such and the like rights, powers, authorities, and jurisdiction as is or are possessed by the magistrates and council of any royal burgh in Scotland; and such rights, powers, authorities, and jurisdiction shall extend equally over all and every part of the limits of such burghs or towns as described in the said recited Act of the second and third year of the reign of his present Majesty: Provided always, that the magistrates and council of such burghs or towns shall not have the power of trying for crimes punishable by death or transportation; and that the rights, powers, authorities, and jurisdiction hereby conferred shall in no case be exclusive of the authority and jurisdiction of any admiralty court or dean of guild court now lawfully established, or of the sheriff or justices of the peace of the county, over the territory within the boundaries of such burghs or towns respectively.

31. Magistrates and Councils shall annually make up a State of their Affairs.—The existing magistrates and council in all the burghs contained in this Act shall, on or before the fifteenth day of October in all future years, make up a distinct state of their affairs, subscribed by the chief or senior magistrate, town clerk, and treasurer, containing an account of all the funds, properties, and revenues in their administration, and of all their transactions in relation to such funds, properties, and revenues, since they came into office; which account shall be brought down as nearly as may be to the said fifteenth day of October, and shall be kept in the town clerk's or treasurer's office, for the inspection of any of the registered electors, from the said fifteenth day of October down till the time of the election; and a full and distinct abstract of the said account, with a balance sheet, containing all necessary particulars, shall be printed and published by the said magistrates on or before the twentieth day of the said month of October.

32. Penalty for Offences against this Act.—If any magistrate, councillor, town clerk, sheriff, or other person shall wilfully contravene or disobey the provisions of this Act, he shall be liable to be sued for such offence in the Court of Session by any person aggrieved for the penal sum of three hundred pounds; which sum, or any smaller sum which may be assessed by the jury in any such action, the defender, upon conviction, shall pay to the pursuer, with full costs of suit: Provided always, that every such action shall be raised within four calendar months after the cause of action shall have arisen, and that notice in writing shall be given to the defender at least one calendar month before raising the same: Provided also, that any such defender against whom judgment shall have been once recovered in such action shall be entitled to plead such judgment as a bar to any other action which may be brought against him for the same matter or thing; and such other action being thereupon dismissed, such defender shall recover his full costs of suit.

33. Irregularity in the Election of Councillors only to affect themselves—Saving of Rights of Property.—No irregularity or nullity in the election of any councillor or magistrate shall, in any case after the passing of this Act, annul or affect the election of other councillors or magistrates not liable to the same grounds of objection, but those particular elections only in which such irregularity or nullity shall have occurred; saving always and reserving to all and every person and persons, or class or community of persons, bodies politic, corporate, or collegiate, all and every right of property within the said burghs and towns which they respectively had or enjoyed before the passing of this Act.

[*S.* **34** *rep.* 35 *&* 36 *Vict. c.* 33, *s.* 32 (*temp.*).]

[*Schedules rep.* 54 *&* 55 *Vict. c.* 67 (*S.L.R.*).]

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4 & 5 WILLIAM 4, 1834.

CHAPTER XVI.

The Exchequer (Scotland) Act, 1834 (*Short Titles Act*, 1896).

An Act to abolish the Office of Recorder of the Great Roll or Clerk of the Pipe in the Exchequer in Scotland. [22d May 1834.]

[*Preamble recites* 6 *Anne, c.* 53, 2 *&* 3 *Will.* 4, *cc.* 103, 112.]

[*S.* **1** *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).]

2. Powers of Recorder of the Great Roll vested in Lord Treasurer's Remembrancer.—The powers and authorities now vested by law in the recorder of the great roll or clerk of the pipe in Scotland shall be transferred and be vested in the lord treasurer's remembrancer of the Exchequer of Scotland for the time being, who is hereby required to perform all such duties as are now performed by the recorder of the great roll or clerk of the pipe.

[*S.* **3** *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).]

CHAPTER XIX.

THE HOUSE TAX ACT, 1834 (*Short Titles Act*, 1896).

AN ACT to repeal certain Duties on Inhabited Dwelling Houses. [16th June 1834.]

[*Preamble* (*reciting* 48 *Geo.* 3, *c.* 55, *and* 3 *&* 4 *Will.* 4, *c.* 39) *rep.* 51 *&* 52 *Vict. c.* 57 (*S.L.R.*). *S.* **1** (*repealing duties on inhabited houses under those Acts*) *and s.* **2** *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).]

3. QUALIFICATIONS CONFERRED BY OCCUPATION OF HOUSES ASSESSED TO HOUSE DUTIES SHALL BE CONFERRED BY OCCUPATION OF HOUSES OF THE RENT OR VALUE SPECIFIED IN RECITED ACTS—IN CASE OF DISPUTE, VALUE TO BE DETERMINED ACCORDING TO RULES IN 48 GEO. 3, C. 55, SCHEDULE (B.).—Where under or by virtue of any Act or Acts in force, in order to qualify or entitle any person to vote at the election of any commissioner or commissioners, or as a qualification for any other purpose, it is required that such person shall occupy a dwelling house assessed to the said duties on inhabited dwelling houses at a certain rent or value, it shall be sufficient to entitle any such person to vote on any such occasion, and it shall be deemed to be a sufficient qualification, or for any such purpose as aforesaid, if such person shall occupy a dwelling house which shall be bonâ fide of the rent or value specified or required in or by any such Act or Acts as aforesaid, without reference to any assessment of the said duties hereby repealed, provided such person shall be in other respects duly qualified for any such purpose as aforesaid; and in case of dispute such rent or value shall be ascertained and determined according to the rules and directions contained in the said schedule (B.) annexed to the said recited Act of the forty-eighth year of King George the Third.

CHAPTER XXII.

THE APPORTIONMENT ACT, 1834 (*Short Titles Act*, 1896).

AN ACT to amend an Act of the Eleventh Year of King George the Second, respecting the Apportionment of Rents, Annuities, and other periodical Payments. [16th June 1834.]

Whereas by an Act passed in the eleventh year of the reign of his Majesty King George the Second, intituled "An Act for the more effectual securing the payment of "rents, and preventing frauds by tenants," it was enacted, that where any tenant for life should happen to die before or on the day on which any rent was reserved or made payable upon any demise or lease of any lands, tenements, or hereditaments which determined on the death of such tenant for life, the executors or administrators of such tenant for life should and might, in an action on the case, recover of and from such undertenant or undertenants of such lands, tenements, or hereditaments, if such tenant for life die on the day on which the same was made payable the whole, or if before such day then a proportion of such rent according to the time such tenant for life lived of the last year or quarter of a year or other time in which the said rent was growing due as aforesaid, making all just allowances, or a proportionable part thereof respectively: And whereas doubts have been entertained whether the provisions of the said Act apply to every case in which the interests of tenants determine on the death of the person by whom such interests have been created, and on the death of any life or lives for which such person was entitled to the lands demised, although every such case is within the mischief intended to have been remedied and prevented by the said Act; and it is therefore desirable that such doubts should be removed by a declaratory law: And whereas, by law, rents, annuities, and other payments due at fixed or stated periods are not apportionable (unless express provision be made for the purpose), from which it often happens that persons (and their representatives), whose income is wholly or principally derived from these sources, by the determination thereof before the period of payment arrives are deprived of means to satisfy just demands, and other evils arise

from such rents, annuities, and other payments not being apportionable, which evils require remedy:

1. RENTS RESERVED ON LEASES DETERMINING ON THE DEATH OF THE PERSON MAKING THEM (THOUGH NOT STRICTLY TENANT FOR LIFE), &c. SHALL BE CONSIDERED AS WITHIN THE PROVISIONS OF RECITED ACT.—Rents reserved and made payable on any demise or lease of lands, tenements, or hereditaments which have been and shall be made, and which leases or demises determined or shall determine on the death of the person making the same (although such person was not strictly tenant for life thereof), or on the death of the life or lives for which such person was entitled to such hereditaments, shall, so far as respects the rents reserved by such leases, and the recovery of a proportion thereof by the person granting the same, his or her executors or administrators (as the case may be), be considered as within the provisions of the said recited Act.

2. ALL RENTS, ANNUITIES, AND OTHER PAYMENTS COMING DUE AT FIXED PERIODS SHALL BE APPORTIONED; SUBJECT TO ALL JUST DEDUCTIONS—REMEDIES FOR RECOVERING THE APPORTIONED PARTS.—All rents service reserved on any lease by a tenant in fee or for any life interest, or by any lease granted under any power (and which leases shall have been granted after the passing of this Act), and all rents charge and other rents, annuities, pensions, dividends, moduses, compositions, and all other payments of every description, in the United Kingdom of Great Britain and Ireland, made payable or coming due at fixed periods under any instrument that shall be executed after the passing of this Act, or (being a will or testamentary instrument) that shall come into operation after the passing of this Act, shall be apportioned so and in such manner that on the death of any person interested in any such rents, annuities, pensions, dividends, moduses, compositions, or other payments as aforesaid, or in the estate, fund, office, or benefice, from or in respect of which the same shall be issuing or derived, or on the determination by any other means whatsoever of the interest of any such person, he or she, and his or her executors, administrators, or assigns, shall be entitled to a proportion of such rents, annuities, pensions, dividends, moduses, compositions, and other payments, according to the time which shall have elapsed from the commencement or last period of payment thereof respectively (as the case may be), including the day of the death of such person, or of the determination of his or her interest, all just allowances and deductions in respect of charges on such rents, annuities, pensions, dividends, moduses, compositions, and other payments being made; and every such person, his or her executors, administrators, and assigns, shall have such and the same remedies at law and in equity for recovering such apportioned parts of the said rents, annuities, pensions, dividends, moduses, compositions, and other payments, when the entire portion of which such apportioned parts shall form part shall become due and payable, and not before, as he, she, or they would have had for recovering and obtaining such entire rents, annuities, pensions, dividends, moduses, compositions, and other payments if entitled thereto; but so that persons liable to pay rents reserved by any lease or demise, and the lands, tenements, and hereditaments comprised therein, shall not be resorted to for such apportioned parts specifically as aforesaid, but the entire rents of which such portions shall form a part shall be received and recovered by the person or persons who if this Act had not passed would have been entitled to such entire rents; and such portions shall be recoverable from such person or persons by the parties entitled to the same under this Act in any action or suit at law or in equity.

3. ACT NOT TO APPLY WHERE THE CONTRARY IS STIPULATED, NOR TO ANNUAL SUMS PAYABLE ON POLICIES OF ASSURANCE.—Provided always, that the provisions herein contained shall not apply to any case in which it shall be expressly stipulated that no apportionment shall take place, or to annual sums made payable in policies of assurance of any description.

CHAPTER XXIV.

THE SUPERANNUATION ACT, 1834 (*Short Titles Act*, 1896).

AN ACT to alter, amend, and consolidate the Laws for regulating the Pensions, Compensations, and Allowances to be made to Persons in respect of their having held Civil Offices in His Majesty's Service. [25th July 1834.]

[*Preamble, reciting* 57 *Geo.* 3, *c.* 65, *and* 6 *Geo.* 4, *c.* 90, *rep.* 51 *&* 52 *Vict. c.* 57 (*S.L.R.*).]

[*Ss.* **1–5** *rep.* 32 *&* 33 *Vict. c.* 60, *s.* 9. *Ss.* **1–4** *provided for pensions to persons having served in certain high civil offices. By s.* 7 *of* 32 *&* 33 *Vict. c.* 60, *section* 6 *of this Act is applied to pensions under that Act.*]

6. DECLARATION TO BE MADE BY PERSONS CLAIMING PENSIONS FOR POLITICAL SERVICES.—And whereas the principle of the regulations for granting allowances of this nature is and ought to be founded on a consideration, not only of the services performed by the individual to the state, but of the inadequacy of his private fortune to maintain his station in life: Be it therefore enacted, that whenever any person shall seek to obtain any one of the pensions before mentioned, his application for that purpose shall be made in writing to the Treasury, to which he shall subscribe his name, and which shall contain not only a statement of the services performed by him, and the grounds on which such pension is claimed, but a specific declaration that the amount of his income from other sources is so limited as to bring him within the intent and meaning of this Act and the principle herein-above declared; and without such declaration no pension as herein-before provided or authorized shall be granted.

[*S.* **7** *rep.* 32 *&* 33 *Vict. c.* 60 *s.* 9. *S.* **8** *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).]

9. SUPERANNUATION ALLOWANCES TO PERSONS WHO ENTERED THE PUBLIC SERVICE BEFORE 5TH AUG. 1829.—From and after the passing of this Act the superannuation allowances to be granted to such officers and clerks who shall have entered the public service prior to the fifth day of August one thousand eight hundred and twenty-nine (except only as herein-after is authorized) shall not exceed the following proportions with reference to the amount of their salaries and the periods of their services respectively; (videlicet,)

To an officer, clerk, or person who shall have served ten years and upwards, and under fifteen years, any annual allowance not exceeding in amount four twelfths of the annual salary and emoluments of his office:

For fifteen years and upwards, and under twenty years, not exceeding five twelfths of such salary and emoluments:

For twenty years and upwards, and under twenty-five years, not exceeding six twelfths of such salary and emoluments:

For twenty-five years and upwards, and under thirty years, not exceeding seven twelfths of such salary and emoluments:

For thirty years and upwards, and under thirty-five years, not exceeding eight twelfths of such salary and emoluments:

For thirty-five years and upwards, and under forty years, not exceeding nine twelfths of such salary and emoluments:

For forty years and upwards, and under forty-five years, not exceeding ten twelfths of such salary and emoluments:

For forty-five years and upwards, and under fifty years, not exceeding eleven twelfths of such salary and emoluments:

And for fifty years or upwards, any annual allowance not exceeding the net amount of the salary and emoluments of his office.

[*Ss.* **10, 11** *rep.* 22 *Vict. c.* 25, *s.* 1.]

12. ALLOWANCES TO BE CALCULATED ON AVERAGE AMOUNT OF SALARY RECEIVED FOR THE THREE YEARS BEFORE SUPERANNUATION.—Provided always, that the superannuation allowance to be granted to any officer or person after the passing of this Act shall not

be computed upon the amount of the salary enjoyed by him at the time of his retirement, unless he shall have been in the receipt of the same, or in the class from which he retires, for a period of at least three years immediately before the granting of such superannuation allowance; and in case he shall not have enjoyed his then existing salary or have been in such class for that period, such superannuation allowance shall be calculated upon the average amount of salary received by such person for three years next preceding the commencement of such allowance.

[*Ss.* **13–15** *rep.* 22 *Vict. c.* 26, *s.* 1. *S.* **16** *rep.* 50 *&* 51 *Vict. c.* 67, *s.* 14. *S.* **17** (*providing for special allowances in special cases*) *rep.* 22 *Vict. c.* 26, *s.* 1.]

18. No Compensation on abolition of Office, or Special Allowance, to be charged upon the Funds of any Department; and no Compensation or Superannuation Allowance to be granted except by order of his Majesty in Council.—No compensation for any office abolished, nor any special allowance or remuneration for good services to any person holding or having held any civil office in any public department, shall be charged upon the incidents or any other fund of any such department; and no such compensation, nor any allowance or compensation in the nature of superannuation or retired allowance or reward to any such person in respect of his having held any public office or employment, or having been engaged in any public service, shall be granted, allowed, or paid, other than under the authority of an order of his Majesty in council, or by the Treasury.

[*S.* **19** *rep.* 22 *Vict. c.* 26, *s.* 1.]

20. Superannuation Allowance to be suspended or reduced during receipt of Salary for efficient Services.—Provided always, that in case any person enjoying any superannuation allowance in consequence of retiring from office on account of age, infirmity, or any other cause, or enjoying any compensation for past services upon the abolition or reduction of office, shall be appointed to fill any office in any public department, every such allowance or compensation shall cease to be paid for any period subsequent to such appointment if the annual amount of the profits of the office to which he shall be appointed shall be equal to those of the office formerly held by him, and in case they shall not be equal to those of his former office then no more of such superannuation allowance or compensation shall be paid to him than what with the salary of his new appointment shall be equal to that of his former office.

21. Act not to extend to Military or Naval Half Pay, &c. except as hereinafter provided.—Provided always, that nothing herein contained with respect to compensation, superannuation, or allowance for civil services, shall extend or be construed to extend to any military or naval half pay, or allowance in lieu of half pay, or to any military or naval allowance or pensions granted or to be granted under the regulations of any order of his Majesty in council, in any of the respective departments of the admiralty, the secretary at war, and the master general of the ordnance, except as herein-after is provided with respect to the same.

22. Account of Public Offices, Salaries, Pensions, and Allowances, and of increase and diminution thereof, to be annually laid before Parliament.—Between the first day of February and the twenty-fifth day of March in every year, or if Parliament shall not be sitting during any part of that period, then within twenty days after the next meeting of Parliament, there shall be laid before both Houses of Parliament an account of every increase and diminution which shall have taken place within the preceding year, ending on the thirty-first day of December, in the number of persons employed in all public offices or departments under the crown, and in the salaries, emoluments, allowances, and expenses which shall have taken place or been paid, granted, received, or incurred for and in respect of all officers and persons belonging to or employed in all such public offices or departments, specifying the amount and nature thereof, and distinguishing every increase and diminution in the amount of all allowances or compensations granted as retired allowances or superannuations to any person having held any office, place, or employment in any such public office or department, and also the time and length of service of every such person, and the amount of the salary and emoluments received by such person immediately preceding his superannuation or retirement, and the nature of his services, and the grounds upon which

such increase or diminution in the establishment of every such public office or department, or of any such salary, emolument, allowance, compensation, or superannuation, shall have been granted or made; and also specifying the name of every person receiving such allowance or compensation who may have died in the course of the year, together with the amount of the annual allowance payable to such person.

23. Accounts of Compensations and Superannuation Allowances to be laid before House of Commons annually.—Provided always, that accounts of all compensations for offices abolished, and of all allowances in the nature of superannuation or retired allowances to all other persons in respect of their having held any public office or employment under the crown, shall annually, at the period lastly provided, be laid before the Commons House of Parliament.

[*S.* **24** *rep.* 22 *Vict. c.* 26, *s.* 1.]

25. Half Pay and Military and Naval Pensions to be laid before Parliament in separate Estimates.—Provided always, that all half pay and allowances in lieu of half pay in the several departments of the army, ordnance, navy, and marines, and all military and naval allowances or pensions granted or which shall be granted in any of such departments under the authority of any order in council, shall be annually laid before the Commons House of Parliament, in separate estimates, at the same time with the ordinary estimates of those respective departments, and shall be kept distinct from all pensions, compensations, superannuation and retired allowances in any of the civil offices of those departments respectively.

26. Compensations and Superannuations not provided for to be charged on Funds of Departments.—The compensations, superannuations, and allowances authorized as well by this as any former Act or Acts shall, when not specially provided for by Parliament, be charged upon and paid and payable by the respective departments or offices in which the persons receiving such allowances shall have served.

[*S.* **27** *rep.* 20 *&* 21 *Vict. c.* 37.]

28. Where Fees form part of the Emoluments of an Office, an average shall be fixed by the Head of the Department, on which Compensation, &c. shall be granted.—It shall be lawful for the person or persons at the head of any department in which any fees or other sources of profit may form part of the emoluments of any office in such department, to fix, with the approbation of the Treasury, or for the Admiralty if the office shall be in that department, an average sum upon which the compensation or superannuation allowance shall be granted, . . . which sum so to be fixed shall not exceed the average amount of such emoluments for the three last preceding years.

S. 28 *in part rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).

[*S.* **29** *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).]

30. Act not to give an absolute right to Compensation or Superannuation Allowances, or to prevent dismissal of persons without Compensation.—Provided always, that nothing in this Act contained shall extend or be construed to extend to give any person an absolute right to compensation for past services, or to any superannuation or retiring allowance under this Act, or to deprive the Treasury, and the heads or principal officers of the respective departments, of their power and authority to dismiss any person from the public service without compensation.

[*S* **31** *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).]

CHAPTER XXVIII.

The Marriage (Scotland) Act, 1834 (*Short Titles Act*, 1896).

An Act to amend the Laws relative to Marriages celebrated by Roman Catholic Priests and Ministers not of the Established Church in Scotland.

[25th July 1834.]

[*Preamble recites Scots Acts*, 1661, *c.* 34, 1698, *c.* 6.]

[*Whole Act except s.* 2 *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).]

2. PERSONS IN SCOTLAND MAY BE MARRIED BY PRIESTS, &C. NOT OF ESTABLISHED CHURCH, AND SUCH PRIESTS, &C. MAY CELEBRATE MARRIAGES.—It shall be lawful to all persons in Scotland, after due proclamation of banns there, to be married by priests or ministers not of the Established Church, and also for such priests or ministers to celebrate marriages, without being subject to any punishment, pains, or penalty whatever; any thing in the said recited Acts, or in any other Act or Acts of Parliament, to the contrary notwithstanding.

CHAPTER XLI.

THE NEW CHURCHES (SCOTLAND) ACT, 1834 (*Short Titles Act*, 1896).

AN ACT to regulate the Appointment of Ministers to Churches in Scotland erected by voluntary Contribution. [30th July 1834.]

[*Preamble.*]

1. MINISTERS TO PLACES OF WORSHIP IN SCOTLAND BUILT BY VOLUNTARY CONTRIBUTION, TO BE APPOINTED ACCORDING TO THE MODE PRESCRIBED BY THE CHURCH COURTS—NO ADDITIONAL CHARGE TO BE IMPOSED ON TEINDS OR HERITORS OF PARISHES, &C. IN WHICH CHURCHES ARE ERECTED BY VOLUNTARY CONTRIBUTION—ACT NOT TO AFFECT POWERS OF COMMISSIONERS OF TEINDS UNDER SCOTCH ACT, 6 ANN. C. 9.—Where any church, chapel, or other place of worship in Scotland, built or acquired and endowed by voluntary contribution, shall, according to the provisions of the existing law, be erected into a parochial church, either as an additional church within a parish already provided with a parochial church, or as the church of a separate parish to be erected out of a part or parts of any existing parish or parishes, whether the same be established and erected merely quoad spiritualia by the authority of the church courts of the Established Church of Scotland, or also quoad temporalia by authority of the lords of council and session, as commissioners of teinds, neither the King's Majesty, nor any private person, nor any body politic or corporate, having right to the patronage of the parish or parishes within which such additional churches shall be established, or out of which such new parishes shall be erected, shall have any claim, right, or title whatsoever to the patronage of such newly-established churches or newly-erected parishes; but the appointment of ministers thereto shall be made according to the manner and subject to the conditions which shall be or have been prescribed by the said church courts, subject always to such alterations as shall be made by them according to the laws of the church from time to time: . . . Provided always, that neither any part of the stipends of ministers appointed for the service of any such additional churches to be erected by voluntary contribution as aforesaid, nor any charge for the support or repairs of any such church, school house, or other building appertaining to the same, nor for the erection or support or repairs of any manse or building for the residence of such ministers, nor for the provision of any glebe for any of such ministers aforesaid, nor for the support of any schoolmaster, shall be imposed on or become chargeable on the teinds or to the heritors of any parish or magistrates of towns in which any such church as aforesaid shall be erected or endowed by voluntary contribution as aforesaid: Provided also, that nothing herein contained shall be construed to limit or affect the powers of the commissioners of teinds exercised under and according to the provisions of the Act of the Scottish Parliament, sixth of Queen Anne, c. 9, intituled "An Act anent the plantation of kirks and valuation of teinds."

S. 1 *in part rep.* 51 *&* 52 *Vict. c.* 57 (*S.L.R.*).

2. ONE FIFTH OF SITTINGS TO BE AT RENTS FIXED BY CHURCH COURTS.—Provided always, that in every church or chapel which may be erected under the authority of this Act not less than one fifth part of the sittings therein shall be at rents to be fixed by the said church courts.

[*Ss.* **3, 4** *rep.* 51 *&* 52 *Vict. c.* 57 (*S.L.R.*).]

CHAPTER LI.

THE EXCISE MANAGEMENT ACT, 1834 (*Short Titles Act*, 1896).

AN ACT to amend the Laws relating to the Collection and Management of the Revenue of Excise.[1] [13th August 1834.]

[1] *Rep. as to dealers in and retailers of wine*, 5 & 6 *Will.* 4, *c.* 39, *s.* 3.

[*Preamble recites* 7 & 8 *Geo.* 4, *c.* 53.]

[*Ss.* **1–3** *rep.* 53 & 54 *Vict. c.* 21, *s.* 40. *S.* **4** *rep.* 37 & 38 *Vict. c.* 35 (*S.L.R.*).]

5. IN WHAT MANNER ENTRY OF PREMISES, &C. IS TO BE MADE.—Every person carrying on any trade or business under or subject to any law or laws of excise, and required by any Act or Acts relating to the revenue of excise to make entry at the next office of excise, or to give notice to the officers of excise, of any house, building, place, vessel, or utensil used in carrying on such trade or business, shall make such entry by delivering such true and particular account as by the Act or Acts relating to such trade or business is required to the officer of excise in whose survey such house, building, place, vessel, or utensil shall be intended to be used; . . . . . .

S. 5 *in part rep.* 37 & 38 *Vict. c.* 35 (*S.L.R.*).

6. PENALTY FOR USING ANY PREMISES OR UTENSILS WITHOUT HAVING MADE ENTRY THEREOF, L.200.—Every person carrying on any trade or business under or subject to any law or laws of excise, who shall make use of any house, building, or place, vessel or utensil, of which entry is required to be made or notice given by any Act or Acts relating to the revenue of excise, without having made entry thereof in manner herein-before directed, shall for every such unentered house, building, or place, vessel or utensil, forfeit two hundred pounds.

7. PENALTY FOR USING PREMISES OR UTENSILS FOR ANY OTHER PURPOSE THAN THAT FOR WHICH THEY ARE ENTERED, L.100.—Every person carrying on any trade or business under or subject to any law or laws of excise, who, having made entry of any house, building, or place, vessel or utensil, or other thing, shall in the carrying on such trade or business fraudulently make use of any such house, building, or place, vessel or utensil, or other thing, for any other or different purpose than the particular use or purpose for which the same shall have been entered, shall forfeit one hundred pounds.

8. NOT MORE THAN ONE ENTRY TO BE IN FORCE FOR THE SAME PREMISES.—When any person or persons shall have made entry of any building, room, place, vessel, or utensil for the carrying on any trade or business in respect of which any entry is by any Act or Acts of Parliament relating to the revenue of excise required, it shall not be lawful during the continuance of such entry for any other person or persons (except persons becoming partners in the same trade or business in respect of which the entry shall already have been made) to make entry of the same building, room, or place, vessel or utensil, for the carrying on of any other trade or business of the same or any other description subject to the survey of excise; but every such subsequent entry made whilst such former entry is in force shall be null and void to all intents and purposes.

9. IF TRADER ABSCONDS OR QUITS ENTERED PREMISES WITHOUT WITHDRAWING THE ENTRY, ANY OTHER PERSON MAY, WITH CONSENT, MAKE ENTRY OF THE PREMISES.—Provided always, that where any person who shall have made entry of any premises for carrying on any trade or business subject to the survey of the excise, shall abscond or shall quit possession of such premises, and discontinue the trade or business in respect of which such entry was made, without having withdrawn such entry, it shall be lawful for any other person, with the consent and approbation of the commissioners of excise, to make entry of the said premises for carrying on any trade or business subject to the survey of the excise; and in such case the former entry shall be deemed to have been withdrawn, and shall become null and void.

[*S.* **10** *rep.* 37 & 38 *Vict. c.* 35 (*S.L.R.*).]

11. EXCISE TRADERS SHALL PAY THEIR DUTIES AT SUCH TIME AND PLACE AND TO SUCH PERSON AS SHALL BE APPOINTED, OR UPON DEMAND MADE BY ORDER OF THE COMMISSIONERS,

ON PAIN OF FORFEITING DOUBLE DUTY.—Every person carrying on any trade or business under or subject to any law or laws of excise shall pay and clear off the duty or duties in that behalf imposed by any Act or Acts of Parliament respectively, and charged upon or incurred by such person, at such time and place and to such person respectively as shall for that purpose be specially directed by any Act or Acts of Parliament relating to such duties, or as shall be from time to time directed by the commissioners of excise, whether payment of such duties shall have been or shall be secured by bond or otherwise, in pursuance of any Act or Acts of Parliament, or not; and if any such person shall not pay and clear off such duty or duties at such time and place and to such person respectively as aforesaid, or upon demand made, under order of the commissioners of excise, by any general surveyor of excise where the trade or business shall be carried on within the limits of the chief office of excise, or elsewhere by the collector of excise in whose collection such trade or business shall be carried on, or the officer of excise in charge for the time being of such collection, or by any officer of excise authorized and directed by such collector or officer in charge to make such demand, whether such demand shall be made personally of such person, or shall be left at his dwelling house, or at the premises where such duty or duties shall have been charged, every such person shall forfeit and lose double the value of the duty or duties so neglected to be paid and cleared off as aforesaid.

12. GOODS FRAUDULENTLY REMOVED OR PRODUCED TO OBTAIN DRAWBACK SHALL BE FORFEITED, WITH TREBLE VALUE OR L.100.—All goods which shall be removed or deposited or concealed, or which shall be produced to any officer of excise or customs with intent fraudulently to obtain any drawback or allowance granted by any Act or Acts relating to the revenues of excise or customs, shall, with the casks, vessels, cases, or other packages containing the same, be forfeited; and every person who shall remove or deposit or conceal, or shall produce to any officer of excise or customs, any goods, with intent fraudulently to obtain any drawback or allowance granted by any Act relating to the revenues of excise or customs, shall forfeit treble the value of such goods or one hundred pounds, at the election of the commissioners of excise or customs, or the person who shall inform or sue for the same.

[*Ss.* **13, 14** *rep.* 53 *&* 54 *Vict. c.* 21, *s.* 40. *S.* **15** *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).]

16. CONSTABLE OR PEACE OFFICER NOT ASSISTING OFFICER OF EXCISE WHEN REQUIRED, TO FORFEIT L.20.—If upon notice given or request made by any officer of excise to any constable, headborough, or other ministerial officer of the peace to go with him as such officer of excise, and to aid and assist him as such officer of excise in the due execution of any act or thing required or enjoined by any Act or Acts relating to the revenues of excise or customs to be done or prevented from being done, or which it shall be lawful for any officer of excise to do or to prevent from being done, such constable, headborough, or officer of the peace shall not go with such officer of excise, or shall not aid or assist him as aforesaid to the utmost of his power, such constable, headborough, or other officer of the peace so offending shall forfeit twenty pounds.

[*S.* **17** *rep.* 53 *&* 54 *Vict. c.* 21, *s.* 40. *S.* **18** *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).]

19. *INFORMATION TO BE EXHIBITED WITHIN FOUR MONTHS AFTER OFFENCE COMMITTED OR SEIZURE MADE*—NOTICE OF INFORMATION TO BE GIVEN, AND PARTIES TO BE SUMMONED—SERVICE OF NOTICE AND SUMMONS.—*Every information for the recovery of any penalty, or for the condemnation of any seizure, shall be exhibited before the commissioners of excise, or justice or justices of the peace respectively, within four calendar months next after the offence or offences alleged in such information shall have been committed, or the goods, commodities, chattels, or things therein alleged to have been forfeited shall have been seized* [*Rep.* 11 *&* 12 *Vict. c.* 118, *s.* 3]; and a notice in writing of such information having been so exhibited shall be given to the person against whom the same shall have been exhibited within one week next after the exhibiting of such information; and the commissioners of excise, or justice or justices of the peace, before whom any such information shall be exhibited, are hereby respectively authorized and required to summon every person against whom any such information shall have been exhibited to appear and plead to and to attend the hearing of such information at a time and place to be named in such summons, which summons shall be served upon every such person

or persons ten days at the least before the time appointed in such summons, and which summons may be added to or may include such notice as aforesaid, or may be separate and apart therefrom, and be served at another and different time, subsequent to the delivery of such notice, at the option of the prosecutor: Provided always that where such information shall be exhibited for the recovery of double the value of any duty or duties neglected to be paid or cleared off, it shall be sufficient if such summons be served twelve hours at the least before the time appointed in such summons: And provided also, that in all cases it shall be deemed and taken to be sufficient delivery and service of any such notice and summons as aforesaid if a copy of the same be left at or upon the place used or occupied by any such person or persons respectively for carrying on his or their trade or business, or at the building or place where any such offence shall have been committed or such seizure made, or at the place of residence, or with the wife or child or servant of any such person or persons, the same being directed to such person or persons by the right or assumed name or names of such person or persons; or where any such offence shall have been committed or discovered in transit, or any seizure made in transit, and the place of business or residence of the offender shall be unknown to the person discovering such offence or making such seizure, it shall be sufficient if such notice and summons, or a copy thereof, be affixed at or upon such conspicuous part of the office of excise next to where such offence shall have been committed or discovered, or seizure made, directed to such offender or offenders by his or their right or assumed name or names, if the same shall be known to the prosecutor, and if not known, without any name or names.

20. JUSTICES NOT AUTHORIZED TO MITIGATE THE PENALTY OF DOUBLE DUTY FOR NON-PAYMENT OF EXCISE DUTIES; NOR TO MITIGATE ANY OTHER EXCISE PENALTIES EXCEPT UNDER SPECIAL POWERS OF MITIGATION.—[*Recital*] Nothing in the said recited Act, or in any other Act or Acts relating to the revenue of excise, shall be construed to authorize or empower any justices of the peace, on the hearing and determining of any information for the recovery of double the value of any duty or duties of excise neglected to be paid or cleared off, to mitigate the said penalty of the double value of such duties, but the said justices shall in all cases convict the defendant or defendants in the full penalty of double the value of the duties which shall be proved to have been neglected to be paid and cleared off, and shall give judgment accordingly; and no justice of the peace before whom any person having been arrested and detained under any Act or Acts relating to the revenue of excise, and liable to the payment of any penalty and in default of the immediate payment thereof to be committed to prison for a limited period, shall have any power or authority to mitigate such penalty, except where a special power for the mitigation of such penalty shall be given; anything in the said recited Act or any other Act or Acts relating to the revenue of excise notwithstanding.

[*S.* **21** *rep.* 53 *&* 54 *Vict. c.* 21, *s.* 40.]

22. IN CASE OF THE DEATH, REMOVAL, OR ABSENCE OF ANY OFFICER OF EXCISE IN WHOSE NAME ANY INFORMATION MAY HAVE BEEN EXHIBITED, THE PROCEEDINGS MAY BE CARRIED ON BY ANY OTHER OFFICER.—Where in any case any information for the recovery of any penalty incurred, or the condemnation of any goods, commodities, articles, or things forfeited, under any law or laws relating to the revenue of excise, shall by order of the commissioners of excise be exhibited before the commissioners of excise, or before any justice or justices of the peace, and the officer of excise by whom or in whose name such information shall be or shall have been exhibited shall die, or be removed or discharged, or at the time of hearing may be absent, such information shall not, by such death, removal, or discharge, or by the absence of such officer, abate or be diminished, but all the proceedings on such information shall be continued and may be proceeded on by any other officer of excise in the name of the officer by whom the same shall have been exhibited; and the said commissioners of excise and the justices shall, on the day named and appointed in the summons to be issued in that behalf, proceed to hear and determine the matter of such information, and shall examine all such witnesses as shall be tendered to them for examination by any officer of excise in support of such information, notwithstanding such death, removal, or discharge, or the absence of the officer of excise by whom or in whose name such information shall be or shall have been exhibited; and all the proceedings on such information, and all proceedings for recovery of any penalty awarded thereon, or for the arrest and imprisonment of any

defendant for nonpayment of such penalty, or for condemnation of any goods, commodities, articles, or things, shall be good, valid, and effectual.

23. Provisions as to Appeal to Quarter Sessions against Judgments given by Justices of the Peace on Informations exhibited to them.—If there shall not be twenty days between the time of any judgment being given by any justices of the peace on any information exhibited to them and the next general quarter sessions of the peace, and the party against whom such judgment shall be given shall appeal against the same, then such appeal may be to the quarter sessions next after the expiration of twenty days from the giving of such judgment; and any notice of appeal shall be given by any officer of excise who shall attend and conduct the proceedings on the part of the revenue of excise, notwithstanding such officer may not be the officer named in the information as informing or exhibiting the same; and it shall be lawful for any court of quarter sessions before whom any appeal shall be brought to adjourn the hearing thereof to the next quarter sessions, then to hear and finally to determine the same.

[*S.* **24** *rep.* 53 *&* 54 *Vict. c.* 21, *s.* 40.]

25. Persons liable to arrest under the Laws of Excise, not being detained at the time, or afterwards escaping, may be afterwards arrested by any Excise Officer.—If any person liable to be arrested and detained under any Act or Acts relating to the revenue of excise shall not be detained at the time when he shall be discovered committing the offence for which he is so liable, or after detention shall make his escape, any officer of excise may stop, arrest, and detain such person at any time afterwards, and carry him before any justice or justices of the peace, to be dealt with as if detained at the time of committing the offence.

[*S.* **26** *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*). *S.* **27** *rep.* 53 *&* 54 *Vict. c.* 21, *s.* 40.]

28. Offences under the Customs Laws may be sued for by order of Commissioners of Excise, and in the name of Officers of Excise—Option as to which of two Penalties shall be sued for.—Any penalty or forfeiture incurred under any Act or Acts of Parliament relating to the revenue of customs may be sued for and recovered by order of the commissioners of excise, and in the name of an officer of excise, as well as by order of the commissioners of customs, and in the name of an officer of customs; and where any election or option is or shall be given by any such Act or Acts to the commissioners of customs, which of two penalties shall be sued for, such election or option may be exercised by the commissioners of excise, and may be averred in the information to have been made by such last-mentioned commissioners; and such averment shall be deemed and taken to be sufficient proof of such order and of such election or option, without any further evidence thereof.

[*S.* **29** *rep.* 53 *&* 54 *Vict. c.* 21, *s.* 40.]

30. Construction of terms in Acts of Parliament relative to the Revenue of Excise.—Whenever in this or any other Act relating to the revenue of excise . . . the singular number or masculine gender only shall be used, such word or words shall be construed to mean several persons as well as one, and females as well as males, and bodies corporate and politic as well as individuals, and several matters and things as well as one matter or thing, unless it be otherwise specially provided for, or there be something in the subject or context repugnant to such construction.

S. 30 *in part rep.* 53 *&* 54 *Vict. c.* 33 (*S.L.R.*).

[*Ss.* **31, 32** *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).]

CHAPTER LX.

The Land Tax Act, 1834 (*Short Titles Act*, 1896).

An Act to amend the Laws relating to the Land and Assessed Taxes, and to consolidate the Boards of Stamps and Taxes. [13th August 1834.]

[*Preamble.*]

[*S.* **1** *rep.* 43 *&* 44 *Vict. c.* 19, *s.* 4.]

2. Assessments of certain inclosed Lands may be made in the places in which they have usually been assessed.—And whereas divers open fields, commons, and waste lands, since the inclosure thereof, have been rated and assessed to the land tax, wholly or in part, in other parishes, townships, hamlets, or places than those in which such lands do lie, the inhabitants of such parishes, townships, hamlets, or places in which such lands are rated and assessed having been before the inclosure thereof intitled to common of pasture or other common rights in such open fields, commons, and waste lands: And whereas doubts have arisen touching the legality of rating and assessing such lands as aforesaid elsewhere than in the parishes, townships, hamlets, or places in which the same do lie, and it is expedient to remove such doubts: Be it therefore enacted and declared, that all allotments and pieces or parcels of land which at any time heretofore have been part or parcel of any such open fields, commons, or waste lands shall and may lawfully be rated and assessed to the land tax in such manner, and in such parishes, townships, hamlets, or places, as the same have since the allotment or inclosure thereof been usually rated and assessed, although such lands may not lie in the parishes, townships, hamlets, or places in which the same have been or may be so as aforesaid rated or assessed; and that all rates and assessments which have been at any time heretofore or may be at any time hereafter made or charged upon or in respect of any such lands as aforesaid in or for the parishes, townships, hamlets, or places respectively in which the same have heretofore been usually rated or assessed, are hereby declared to have been and shall be deemed to be respectively as valid and effectual to all intents and purposes, and shall be collected and levied in like manner, as if such lands had been situated within the parishes, townships, hamlets, or places in or for which such rates or assessments have been or shall be made or charged.

[*Ss.* **3**, **4** *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*). *S.* **5** *rep.* 61 *&* 62 *Vict. c.* 22 (*S.L.R.*). *Ss.* **6**, **7** *rep.* 43 *&* 44 *Vict. c.* 19, *s.* 4. *Ss.* **8**, **9** *rep.* 53 *&* 54 *Vict. c.* 21, *s.* 40. *S.* **10** *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*). *Ss.* **11–15** *rep.* 43 *&* 44 *Vict. c.* 19, *s.* 4.]

CHAPTER LXVII.

The Transportation Act, 1834 (*Short Titles Act*, 1896).

An Act for abolishing Capital Punishment in case of returning from Transportation. [13th August 1834.]

Recital of 5 Geo. 4, c. 84, s. 22.—Whereas by an Act passed in the fifth year of the reign of his late Majesty King George the Fourth, intituled "An Act for the transportation of offenders from Great Britain," it is amongst other things enacted, that if any offender who should have been or should be sentenced or ordered to be transported or banished, or who should have agreed or should agree to transport or banish himself or herself, on certain conditions, either for life or any number of years, under the provisions of the said last-mentioned recited Act or any former Act, should be afterwards at large within any part of his Majesty's dominions, without some lawful cause, before the expiration of the term for which such offender should have been sentenced or ordered to be transported or banished, or should have so agreed to transport or banish himself or herself, on certain conditions, either for life or any number of years, under the provisions of the said last-recited Act or any former Act, should be afterwards at large within any part of his Majesty's dominions, without some lawful cause, before the expiration of the term for which such offender should have been sentenced or ordered to be transported or banished, or should have so agreed to transport or banish himself or herself, every such offender so being at large, being thereof lawfully convicted, should suffer death as in cases of felony without benefit of clergy: And whereas it is expedient that a lesser punishment than that of death should be provided for the punishment of the offenders convicted of any such offence so specified in the said Act of the fifth year of the reign of King George the Fourth:

1. Substituted Punishment for such Offence or for aiding it.— . . . Every

person convicted of any offence above specified in the said Act of the fifth year of the reign of his late Majesty King George the Fourth, or of aiding or abetting, counselling, or procuring the commission thereof, shall be liable to be transported beyond the seas for his or her natural life . . . . . .

S. 1 *in part rep.* 51 & 52 *Vict. c.* 57 (*S.L.R.*), *and* 55 *and* 56 *Vict. c.* 19 (*S.L.R.*).

CHAPTER LXX.

THE HOUSE OF COMMONS OFFICERS ACT, 1834 (*Short Titles Act*, 1896).

AN ACT to regulate the Salaries of the Officers of the House of Commons, ... [13th August 1834.]

Title in part rep. 51 & 52 *Vict. c.* 57 (*S.L.R.*).

[*Preamble recites* 52 *Geo.* 3, *c.* 11, *and* 2 & 3 *Will.* 4, *c.* 105.]

1. SALARY TO SPEAKER OF HOUSE OF COMMONS L.5000 PER ANNUM.—The net annual salary of five thousand pounds shall be issued and paid out of the consolidated fund of the United Kingdom of Great Britain and Ireland to the speaker of the House of Commons. . . . . .

S. 1 *in part rep.* 53 & 54 *Vict. c.* 51 (*S.L.R.*).

[*S.* **2** *rep.* 37 & 38 *Vict. c.* 35 (*S.L.R.*).]

3. SPEAKER'S SECRETARY TO BE SECRETARY TO FEE FUND COMMISSIONERS.— . . . The office of secretary to the commissioners of the fee fund of the House of Commons shall be held in conjunction with the office of secretary to the speaker.

S. 3 *in part rep.* 37 & 38 *Vict. c.* 35 (*S.L.R.*).

[*Ss.* **4–8** *rep.* 37 & 38 *Vict. c.* 35 (*S.L.R.*).]

CHAPTER LXXV.

THE EXCISE ACT, 1834 (*Short Titles Act*, 1896).

AN ACT . . . to impose additional Duties on Licences to Retailers of Spirits in the United Kingdom. [14th August 1834.]

Title in part rep. 51 & 52 *Vict. c.* 57 (*S.L.R.*).

[*Preamble.*]

[*Whole Act, except ss.* **9, 10** *rep.* 37 & 38 *Vict. c.* 35 (*S.L.R.*).]

9. HOUSES LICENSED FOR RETAIL OF BEER OR SPIRITS TO BE DEEMED TO BE OF THE SAME VALUE SO LONG AS THE PRESENT HOLDERS HOLD THEM AND THE PREMISES ARE UNALTERED—IN ALL OTHER CASES THE ANNUAL VALUE OF LICENSED PREMISES FOR FIXING RATE OF DUTY SHALL BE ASCERTAINED UNDER 6 GEO. 4, C. 81, S. 5.—And whereas by the said herein-before mentioned Act of the sixth year of the reign of his said late Majesty the rates of duty on excise licences taken out by retailers of beer, having the authority of justices of peace to keep a common inn, alehouse, or victualling house, and of spirits, in Great Britain, were fixed and ascertained by the rent or value at which the house and premises occupied or used by such retailers were rated under the authority of any Act or Acts of Parliament for granting duties on inhabited houses; and by an Act passed in this present session of Parliament the said duties on inhabited houses are repealed; whereby it has become necessary to make provision for ascertaining the rent or value of houses and premises in respect of which such licences shall hereafter be taken out: Be it therefore enacted, that every house and premises in respect of which any person shall be licensed as such retailer of beer or spirits at the time of the passing of this Act shall continue to be deemed of the same rent or value at which the same was assessed, and in respect of which the licence duty was paid on the last taking out or renewal of the licences by such person, so long as such person shall continue to hold

the same, and to renew his licences in respect thereof, and so long as such house and premises shall remain unaltered; and in case of any such person quitting such house and premises, or of any alteration therein, and in all cases hereafter in which any such licence or licences shall be applied for in respect of any house or premises not licensed at the passing of this Act, the rent or annual value of the house and premises in respect of which such licence or licences shall be applied for shall be ascertained in the manner and by the means and method prescribed by the said Act of the sixth year of his said late Majesty's reign, where houses and premises were not so rated to the duty on inhabited houses; and the rates of licence duty shall be fixed and paid in conformity thereto according to the amount of duty by the said recited Act and this Act imposed.

10. Licences under recited Act or any other Excise Act may be granted by Commissioners of Excise or their authorized Officers.—And whereas an Act was passed in the ninth year of the reign of his late Majesty King George the Fourth, for regulating the retail of exciseable articles and commodities to passengers on board of passage vessels from one part to another of the United Kingdom; and by an omission in the said Act no power is given to any officer of excise, or any other persons than the commissioners of excise, to grant the licences thereby authorized to be granted, whereby great inconvenience and delay is occasioned to persons desirous of obtaining such licences: For remedy whereof be it further enacted, that all licences to be granted under the said Act, or any other Act relating to the revenue of excise, may be granted by the commissioners of excise, or by any officer or officers of excise who shall be authorized by the commissioners of excise to grant the same; and all licences granted by any officer or officers so authorized shall be good, valid, and effectual; any thing in any Act contained to the contrary notwithstanding.

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5 & 6 WILLIAM 4, 1835.

CHAPTER XXIV.

The Naval Enlistment Act, 1835 (*Short Titles Act*, 1896).

An Act for the Encouragement of the voluntary Enlistment of Seamen, and to make Regulations for more effectually manning His Majesty's Navy.

[21st August 1835.]

[*Preamble.*]

1. Naval Service limited to five years—If the Ship be abroad, Seamen, on the expiration of their Service, to be discharged or sent home by the earliest opportunity—Admiral, in case of emergency, may detain them six months longer or till emergency has ceased—Seamen under arrest for Trial not to be discharged until after Trial, &c.—Persons entitled to Discharge shall perform Duties and be amenable to Naval Discipline until discharged.—No person shall be liable to be detained against his consent in the naval service of his Majesty for a longer period than five years, to be computed from the day of his being entered into the same, unless he shall have voluntarily entered for a longer term, and except as herein-after provided; and at the expiration of such period of continuous service he shall upon his application for that purpose be entitled to be discharged; and if the ship on board which he shall be serving be in any port of the United Kingdom he shall be forthwith discharged; and in cases of men serving on board ships absent from the United Kingdom, the lord high admiral, or the commissioners for executing the office of lord high admiral, shall cause the necessary orders and instructions to be given to all admirals and other officers in command of his Majesty's ships, that about the time when the period of their respective services shall expire every person entitled to his discharge, on signifying to his captain or commanding officer his wish no longer to continue in the service, shall be discharged forthwith, if he desire it, or shall be sent by the earliest convenient opportunity, in

some ship of his Majesty, to some port of the United Kingdom, to be there discharged: Provided always, nevertheless, that if the admiral or commanding officer of the fleet or squadron under whose command he shall be, shall, in consequence of any special emergency, deem it hazardous to the public service forthwith to discharge him, then such admiral or commanding officer shall have power to detain him in the service for a further period of six calendar months, or until such emergency shall have ceased; . . . Provided also, that if any seaman shall be under lawful arrest at the period at which he shall be so entitled to his discharge, then such discharge shall not take place until such arrest shall have ceased, or, in case he shall have been put under arrest in order to be brought to trial for any offence, until he shall have been tried for such offence, and have undergone the punishment to which he may be adjudged for the same by sentence of court martial: And provided further, that nothing in this Act contained shall be construed to exempt any person so entitled to his discharge from the performance of the duties of his station until he shall have been actually discharged; and that every such person, so long as he shall be in the service, shall be amenable and subject to the discipline of the navy, and to the several provisions of the laws in being relating to the government of his Majesty's ships, vessels, and forces by sea.

S. 1 *in part rep.* 16 *&* 17 *Vict. c.* 69, *ss.* 3–5.

2. Discharged Seamen shall receive Certificates, and Protections from Naval Service for 2 years.—Every such seaman who may have served the said term of five years, whilst any proclamation of his Majesty calling for the services of seafaring men shall have been in force, shall, upon being discharged from the navy, be entitled to receive from the captain or commanding officer of the ship from which he shall be so discharged a certificate of his service therein, containing a description of his age, person, and place of birth, upon the production at the Admiralty office of which and of similar certificates as to his service in any other of his Majesty's ships in which he may have served during such period of five years (all which certificates the captains of such ships are hereby required to give him on his discharge from the same respectively), and upon a comparison of the dates and particulars to be expressed in such certificates with the muster books of the several ships in which he shall have served, provided the particulars shall be found correct and the certificates be found genuine, a protection from service in the navy for the space of two years shall be issued to every such seaman gratis, under the hands of two or more of the commissioners for executing the office of lord high admiral and the seal of the office of Admiralty, in such form as the said commissioners shall think fit: Provided always, that if any such seaman shall be discharged, except upon his own application, before the term of his service shall amount to five years as aforesaid, a protection shall be granted to him for the space of one year only.

3. Punishment for forging Certificates, &c.—If any person shall forge or counterfeit any certificate of service in his Majesty's navy, or any instrument purporting to be a protection from such service, or shall fraudulently utter or publish any forged certificate of such service, or any forged instrument purporting to be a protection from such service, knowing the same to be forged, or shall fraudulently alter any certificate or protection which shall have been duly granted or issued; or if any person shall forge or fraudulently alter any extract from a baptismal register, or shall knowingly utter any false or fraudulently altered extract from a baptismal register, or any false affidavit, certificate, or other document, in order to obtain from the Admiralty office a protection from his Majesty's naval service for himself or any other person; or if any person, being in the possession of a protection, shall lend, sell, or dispose thereof to any other person, in order fraudulently to enable such other person to make an unlawful use of the same; or if any person shall produce, utter, or make use of, as a protection for himself, any protection which shall have been made out or issued for any other individual; every person in any such manner offending shall be deemed guilty of a misdemeanor, and such protection shall thenceforth be null and void.

[*Ss.* **4–6** *rep.* 16 *&* 17 *Vict. c.* 69, *ss.* 4, 5. *S.* **7** *rep.* 28 *&* 29 *Vict. c.* 112, *s.* 1.]

8. Provisions in favour of Volunteers extended to Colonial Seamen, who on their Discharge shall be sent to their Homes.—All the provisions contained in this Act in favour of volunteers shall be extended to the seamen belonging to the British colonies who shall freely enter themselves to serve in the navy; and all such colonial

seamen, after being discharged at the expiration of five years service, in case they shall be desirous to return to their native colony, shall either be conveyed thither free of expense, or be allowed a gratuity in money sufficient to cover the cost of their return thereto, as the commissioners for executing the office of lord high admiral shall think fit.

9. Act not to diminish the authority of the Admiralty in the discharge of Seamen—Seamen may obtain their Discharge on providing Substitutes.—Provided always, that nothing in this Act contained shall extend to control or diminish the authority vested in the lord high admiral and the commissioners for executing the office of lord high admiral to discharge, as he or they shall think fit, or to authorize the discharge of any seaman from his Majesty's naval service ; and that if any seaman shall be desirous of being discharged from the naval service before the expiration of the period of five years for which he shall be engaged or shall be bound to serve, and shall provide one able seaman or two able-bodied landmen to serve in his stead, for a period of five years (if their services shall be so long required), every such seaman shall, upon the approval of such substitutes by the proper officer of the Admiralty, and upon their being actually received into the service on board any one of his Majesty's ships of war, be forthwith discharged from the navy, and shall be entitled to the same protection as if he had completed a period of five years service.

[*S.* **10** *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).]

CHAPTER XXXV.

The Paymaster General Act, 1835 (*Short Titles Act*, 1896).

An Act for consolidating the Offices of Paymaster General, Paymaster and Treasurer of Chelsea Hospital, Treasurer of the Navy, and Treasurer of the Ordnance. [25th August 1835.]

[*Preamble.*]

1. His Majesty may abolish certain Offices and constitute one Office in place thereof.—It shall be lawful for his Majesty, by warrant under the royal sign manual, countersigned by the Treasury, to abolish the said offices of receiver and paymaster general of his Majesty's guards, garrisons, and land forces, of paymaster and treasurer of all moneys for the maintenance or relief of the disabled and superannuated non-commissioned officers and soldiers entertained in his Majesty's royal hospital near Chelsea, of treasurer of his Majesty's royal navy, and of treasurer of his Majesty's ordnance ; and in place of the said several offices to constitute and appoint one office for the discharge of the duties now executed in the several offices so authorized to be abolished.

[*S.* **2** *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).]

3. Style and establishment of the Office of Paymaster General.—The office to be created to execute the several duties now discharged in the said offices so to be abolished shall be styled "The Office of his Majesty's Paymaster General" ; and the establishment thereof shall consist of a paymaster general, with such number of officers, clerks, and assistants, and with such salaries, as shall be fixed and regulated from time to time by the Treasury.

4. Appointment to Office.—The said office of paymaster general shall be granted by warrant under the royal sign manual, countersigned by the Treasury, and such grant when so made, shall be and continue in force during his Majesty's pleasure, in the same manner as the offices by this Act authorized to be abolished are granted and held.

5. Office not to be deemed a new Office under 6 Ann. c. 41.—The said office of paymaster general shall not be deemed or taken to be a new office within the meaning of an Act passed in the sixth year of the reign of her Majesty Queen Anne, intituled "An Act for the security of her Majesty's person and government, and of the succession "of the crown of Great Britain in the protestant line."

[*S.* **6** *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*)]

7. Duties, &c. transferred to new Office.—From and after the abolition of the said offices, and so soon as the appointment of a paymaster general, shall have been made under the authority of this Act by his Majesty, all the interest, titles, powers, authorities, privileges, and duties now exercised by or vested, either by law or usage, in any of the said offices so abolished, shall be and the same are hereby declared to be transferred to, exercised by, and vested in the said paymaster general in as full and ample a manner to all intents and purposes as they were exercised by or vested in the persons holding the said offices so abolished, except only so far as any of such interests, titles, powers, authorities, privileges, and duties are or shall be by this Act controlled, diminished, or varied.

[*Ss.* **8, 9** *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).]

10. Treasury may make Regulations for new Office.—[*Recital*] It shall be lawful for the Treasury, and they are hereby empowered, to prescribe such rules and regulations, and to issue such orders, from time to time, in all matters and things relating to the said office, for the safety, economy, and advantage of the public service, as they shall see fit; which rules, regulations, and orders shall be of full force and authority, and shall be observed by the comptroller general of his Majesty's Exchequer, and by the Bank of England, when certified to them by the Treasury, and by all bodies and persons whatsoever, in relation to all matters and things therein contained, any thing in any Act or Acts to the contrary notwithstanding.

11. Regulations to be laid before Parliament.—A return, setting forth all rules, orders, and regulations which shall have been issued and prescribed by the commissioners of the Treasury, shall be laid before Parliament within six weeks from the date of their being promulgated, if Parliament be then sitting, and if not then sitting, within six weeks from the day of the next ensuing meeting of Parliament.

[*S.* **12** *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).]

CHAPTER XXXVIII.

The Prisons Act, 1835 (*Short Titles Act*, 1896).

An Act for effecting greater Uniformity of Practice in the Government of the several Prisons in England and Wales . . . . . [25th August 1835.]

Title in part rep. 51 *&* 52 *Vict. c.* 57 (*S.L.R.*).

[*Preamble.*]

[*S.* **1** *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*). *S.* **2** *rep.* 28 *&* 29 *Vict. c.* 126, *s.* 73.]

3. Justices, &c. may commit Offenders to any House of Correction near the place where the Assizes, &c. are to be held.—[*Recital*] It shall be lawful for any justice of the peace or coroner, acting within their several jurisdictions in England and Wales, to commit for safe custody to any house of correction, situate near to the place where such assizes and sessions are intended to be holden, any person or persons charged before them with any offence triable at such assizes or session; and whenever any such persons shall be committed to any such house of correction for trial at such assizes or sessions, the keeper of such house of correction shall deliver to the judges of assize or justices at sessions a calendar of all prisoners in his custody for trial at such assizes or sessions respectively, in the same way that the sheriff of the county would be by law required to do if such prisoners had been committed to the common gaol of the county.

4. Commitment, &c. of persons convicted of Offences for which they are liable to Death, &c.—Whenever any person shall be convicted at any assizes or sessions of any offence for which he or she shall be liable either to the punishment of death, transportation, or imprisonment, it shall be lawful for the court (if it shall so think fit) to commit such person to any house of correction for such county, in execution of his or her judgment; and in case of the commitment of any person sentenced to death, execution of such judgment shall and may be had and done by the sheriff of the

county ; and in case of the commitment of any person either sentenced to transportation, or pardoned for any capital offence on condition of transportation, all the powers, provisions, and authorities for the removal of offenders sentenced to transportation, given or granted by any former Act or Acts of Parliament to sheriffs or gaolers, shall be and the same are hereby extended and given to the keepers of houses of correction in whose custody such last-mentioned offenders shall be.

[*Ss.* **5**, **6** *rep.* 28 *&* 29 *Vict. c.* 126, *s.* 73. *S.* **7** *rep.* 40 *&* 41 *Vict. c.* 21, *s.* 45, *c.* 53, *s.* 54. *Ss.* **8**, **9** *rep.* 51 *&* 52 *Vict. c.* 57 (*S.L.R.*).]

10. Secretary of State may visit or authorize persons to visit Prisons.—It shall be lawful for any one of his Majesty's principal secretaries of state to visit and inspect, or to authorize in writing any person or persons to visit and inspect, any prison or prisons or any penitentiary or other place of confinement for prisoners in Great Britain upon any occasion which such secretary of state may think expedient.

[*Ss.* **11**, **12** *rep.* 28 *&* 29 *Vict. c.* 126, *s.* 73.]

CHAPTER XXXIX.

The Excise Act, 1835 (*Short Titles Act*, 1896).

An Act to exempt certain Retailers of Spirits to a small Amount from the additional Duties on Licences; and to discontinue the Excise Survey on Wine, and the Use of Permits for the Removal thereof.

[31st August 1835.]

[*Preamble.*]

[*Ss.* **1**, **2** *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).]

3. So much of any Act as requires Entries by Dealers in Wine, and Accounts of Stocks of Wine, &c. repealed.—So much of any Act or Acts as requires any dealer in or retailer of wine to make entry of the premises by him occupied for dealing in or retailing wine, and as requires the keeping an account by the officers of excise of the stocks of wine in the possession of dealers or retailers, and as authorizes the survey by officers of excise of such stocks, and of the premises in which the same are kept, shall be and the same is hereby repealed.

4. Retailers of Wine, who also deal in or retail Spirits, shall continue to make Entry, and Officers of Excise may enter and examine the places used by them for keeping Wine.—Provided always, that where any dealer in or retailer of wine shall also be a dealer in or retailer of foreign or British spirits in the same house or premises, or in any other house or premises within five hundred yards, such dealer or retailer shall continue to make entry with the officers of excise of every house, room, cellar, vault, or place made use of by him for the keeping or storing of or dealing in or retailing wine, on pain of forfeiting for every unentered house, room, cellar, vault, or place, fifty pounds, together with all wine and other liquors which may be found therein ; and it shall be lawful for any officer of excise at any time to enter into any house, room, cellar, vault, or place used by any such dealer or retailer for keeping or storing, dealing in or retailing wine, and to examine all wine therein.

5. Requirement of Permits for removal of Wine repealed.—So much of any Act or Acts as relates to the requiring of permits for the removal of wine shall be and the same is hereby repealed.

6. Act not to affect Licences for dealing in Wine.—Provided always, that nothing in this Act contained shall extend, or be deemed or construed to extend, to affect the duties on licences required to be taken out by dealers in and retailers of wine ; but that every dealer in and retailer of wine shall take out a licence or licences, and pay for the same, in the same manner as if this Act had not been passed.

7. Licences may be granted to sell Beer, Spirits, and Wine in Theatres, &c., without production of a Certificate.—It shall be lawful for the commissioners and officers of excise, and they are hereby authorized and empowered, to grant retail licences

to any person to sell beer, spirits, and wine in any theatre established under a royal patent, or in any theatre or other place of public entertainment licensed by the lord chamberlain or by justices of the peace, without the production by the person applying for such licence or licences of any certificate or authority for such person to keep a common inn, alehouse, or victualling house; any thing in any Act or Acts to the contrary notwithstanding.

[*S.* **8** *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).]

CHAPTER XLI.

THE GAMING ACT, 1835 (*Short Titles Act*, 1896).

AN ACT to amend the Law relating to Securities given for Considerations arising out of gaming, usurious, and certain other illegal Transactions.[1]

[31st August 1835.]

[1] *This Act is rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*), *except so much of sections* 1 *&* 2 *as relates to the Acts of the ninth and eleventh years of the reign of her late Majesty Queen Anne therein recited or referred to.*

[*Preamble recites* 9 *Ann. c.* 19, *and Irish Act*, 11 *Ann. c.* 5.]

1. SECURITIES GIVEN FOR CONSIDERATIONS ARISING OUT OF ILLEGAL TRANSACTIONS NOT TO BE VOID, BUT TO BE DEEMED TO HAVE BEEN GIVEN FOR AN ILLEGAL CONSIDERATION.— . . . Every note, bill, or mortgage which if this Act had not been passed would, by virtue of the said several lastly herein-before mentioned Acts or any of them, have been absolutely void, shall be deemed and taken to have been made, drawn, accepted, given or executed for an illegal consideration; and the said several Acts shall have the same force and effect which they would respectively have had, if, instead of enacting that any such note, bill, or mortgage should be absolutely void, such Acts had respectively provided that every such note, bill, or mortgage should be deemed and taken to have been made, drawn, accepted, given, or executed for an illegal consideration: Provided always, that nothing herein contained shall prejudice or affect any note, bill, or mortgage which would have been good and valid if this Act had not been passed.

S. 1 *in part rep.* 53 *&* 54 *Vict. c.* 51 (*S.L.R.*).

2. MONEY PAID TO THE HOLDER OF SUCH SECURITIES SHALL BE DEEMED TO BE PAID ON ACCOUNT OF THE PERSON TO WHOM THE SAME WAS ORIGINALLY GIVEN.—In case any person shall make, draw, give, or execute any note, bill, or mortgage for any consideration on account of which the same is by the herein-before recited Acts of . . . the ninth and eleventh years of the reign of her said late Majesty Queen Anne, or by any one or more of such Acts, declared to be void, and such person shall actually pay to any indorsee, holder, or assignee of such note, bill, or mortgage the amount of the money thereby secured, or any part thereof, such money so paid shall be deemed and taken to have been paid for and on account of the person to whom such note, bill, or mortgage was originally given upon such illegal consideration as aforesaid, and shall be deemed and taken to be a debt due and owing from such last-named person to the person who shall so have paid such money, and shall accordingly be recoverable by action at law in any of his Majesty's courts of record.

S. 2. *in part rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).

[*Ss.* **3, 4** *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).]

CHAPTER LVII.

THE SAVINGS BANK ACT, 1835 (*Short Titles Act*, 1896).

AN ACT to extend to Scotland certain Provisions of an Act of the Ninth Year of His late Majesty, to consolidate and amend the Laws relating to Savings Banks . . . . . .[1] [9th September 1835.]

Title in part rep. 51 & 52 Vict. c. 57 (S.L.R.).

[1] *This Act is rep. 26 & 27 Vict. c. 87, s. 1, with a proviso in section 68 that that Act shall not be held to repeal any of the existing statutes relating to savings banks in so far as relates to post office savings banks established or to be established under 24 & 25 Vict. c. 14, nor to repeal any of the powers and authorities vested by those Acts in the commissioners for the reduction of the national debt in regard to the control, management, investment, conversion, and regulation of the funds remitted by the trustees of savings banks or by the trustees of friendly societies to the said commissioners.*

Whereas it is expedient to repeal the law relative to savings banks in Scotland, and to make other provisions respecting savings banks in Scotland: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that all the clauses and provisions of a certain Act made and passed in the ninth year of the reign of his late Majesty, intituled "An Act to consoli- "date and amend the laws relating to savings banks," and also of a certain other Act made and passed in the third year of the reign of his present Majesty, intituled "An "Act to enable depositors in savings banks and others to purchase government "annuities through the medium of savings banks, and to amend an Act of the ninth "year of his late Majesty to consolidate and amend the laws relating to savings "banks," shall from and after the passing of this Act extend to Scotland.

[*Ss.* **2**, **3**, **5** *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*). *S.* **4** *rep.* 50 *&* 51 *Vict. c.* 40, *s.* 11.]

CHAPTER LVIII.

THE CROWN LANDS (SCOTLAND) ACT, 1835 (*Short Titles Act*, 1896).

AN ACT to amend the Acts relating to the Hereditary Land Revenues of the Crown in Scotland. [9th September 1835.]

[*Preamble recites* 6 *Geo.* 4, *c.* 17, 10 *Geo.* 4, *c.* 50, 2 *&* 3 *Will.* 4, *c.* 1, 2 *&* 3 *Will.* 4, *c.* 112, *and* 3 *&* 4 *Will.* 4, *c.* 69, *and doubts as to powers of Treasury thereunder.*]

1. POWERS AS TO RIGHTS OF CROWN IN SCOTLAND AS ULTIMUS HÆRES, &C. VESTED IN THE TREASURY.—All powers and authorities for the ascertaining and recovering, and for the management, superintendence, and care of all rights and interests of his Majesty, in right of his crown, in Scotland, as ultimus hæres, or in cases of bastardy, or by reason of any forfeiture whatsoever, shall be and are hereby declared to be vested in the Treasury, in the same manner and to the same extent as such powers and authorities were vested in the Treasury prior to the passing of any of the said recited Acts; any thing in the said Acts or either of them to the contrary notwithstanding.

[*S.* **2** *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*). *Ss.* **3**–**5** *rep.* 57 *&* 58 *Vict. c.* 43, *s.* 5 (1).]

CHAPTER LXII.

THE STATUTORY DECLARATIONS ACT, 1835 (*Short Titles Act*, 1896).

AN ACT . . . to make Provisions for the Abolition of unnecessary Oaths. [9th September 1835.]

Title in part rep. 51 & 52 Vict. c. 57 (S.L.R.).

[*Preamble rep.* 51 *&* 52 *Vict. c.* 57 (*S.L.R.*). *S.* **1** *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).]

2. TREASURY MAY SUBSTITUTE A DECLARATION IN LIEU OF AN OATH, &C. IN CERTAIN

CASES.—In any case where by any Act or Acts made or to be made relating to the revenues of customs or excise, the post office, the office of stamps and taxes, the office of woods and forests, land revenues, works, and buildings, the war office, the army pay office, the office of the treasurer of the navy, the accountant general of the navy, or the ordnance, his Majesty's Treasury, Chelsea Hospital, Greenwich Hospital, the Board of Trade, or any of the offices of his Majesty's principal secretaries of state, the India board, the office for auditing the public accounts, the national debt office, or any office under the control, direction, or superintendence of the Treasury, or by any official regulation in any department, any oath, solemn affirmation, or affidavit might, but for the passing of this Act, be required to be taken or made by any person on the doing of any act, matter, or thing, or for the purpose of verifying any book, entry, or return or for any other purpose whatsoever, it shall be lawful for the Treasury, if they shall so think fit, by writing under their hands and seals, to substitute a declaration to the same effect as the oath, solemn affirmation, or affidavit, which might but for the passing of this Act be required to be taken or made; and the person who might under the Act or Acts imposing the same be required to take or make such oath, solemn affirmation, or affidavit, shall, in presence of the commissioners, collector, other officer or person empowered by such Act or Acts to administer such oath, solemn affirmation, or affidavit, make and subscribe such declaration; and every such commissioner, collector, other officer or person, is hereby empowered and required to administer the same accordingly.

3. COPY OF INSTRUMENT SUBSTITUTING DECLARATION SHALL BE PUBLISHED IN THE GAZETTE; AND AFTER 21 DAYS FROM THE DATE THEREOF THE PROVISIONS OF THIS ACT SHALL APPLY.—When the lords commissioners of his Majesty's Treasury shall, in any such case as herein-before mentioned, have substituted in writing under their hands and seals a declaration in lieu of an oath, solemn affirmation, or affidavit, such lords commissioners shall, so soon as conveniently may be, cause a copy of the instrument substituting such declaration to be inserted and published in the London Gazette; and from and after the expiration of twenty-one days next following the day of the date of the gazette, wherein the copy of such instrument shall have been published, the provisions of this Act shall extend and apply to each and every case specified in such instrument, as well and in the same manner as if the same were specified and named in this Act.

4. AND NO OATH SHALL BE ADMINISTERED FOR WHICH SUCH DECLARATION HAS BEEN SUBSTITUTED.—After the expiration of the said twenty-one days it shall not be lawful for any commissioner, collector, officer, or other person to administer or cause to be administered, or receive or cause to be received, any oath, solemn affirmation, or affidavit, in the lieu of which such declaration as aforesaid shall have been directed by the Treasury to be substituted.

5. MAKING FALSE DECLARATION IN MATTERS RELATING TO CERTAIN REVENUES A MISDEMEANOR.—If any person shall make and subscribe any such declaration as herein-before mentioned in lieu of any oath, solemn affirmation, or affidavit by any Act or Acts relating to the revenues of customs or excise, stamps and taxes, or post office, required to be made on the doing of any act, matter, or thing, or for verifying any book, account, entry, or return, or for any purpose whatsoever, and shall wilfully make therein any false statements as to any material particular, the person making the same shall be deemed guilty of a misdemeanor.

6. OATH OF ALLEGIANCE STILL TO BE REQUIRED IN ALL CASES.—Provided always, that nothing in this Act contained shall extend or apply to the oath of allegiance in any case in which the same now is or may be required to be taken by any person who may be appointed to any office; but that such oath of allegiance shall continue to be required, and shall be administered and taken, as well and in the same manner as if this Act had not been passed.

7. OATHS IN COURTS OF JUSTICE, &C. STILL TO BE TAKEN.—Provided also, that nothing in this Act contained shall extend or apply to any oath, solemn affirmation, or affidavit, which now is or hereafter may be made or taken, or be required to be made or taken, in any judicial proceeding in any court of justice, or in any proceeding for or by way of summary conviction before any justice or justices of the peace; but all such oaths, affirmations, and affidavits shall continue to be required, and to be administered, taken, and made, as well and in the same manner as if this Act had not been passed.

8. UNIVERSITIES OF OXFORD AND CAMBRIDGE AND OTHER BODIES MAY SUBSTITUTE DECLARATIONS FOR OATHS.—It shall be lawful for the universities of Oxford and

Cambridge, and for all other bodies corporate and politic, and for all bodies now by law or statute or by any valid usage authorized to administer or receive any oath, solemn affirmation, or affidavit, to make statutes, byelaws, or orders authorizing and directing the substitution of a declaration in lieu of any oath, solemn affirmation, or affidavit now required to be taken or made: Provided always, that such statutes, byelaws, or orders be otherwise duly made and passed according to the charter, laws, or regulations of the particular university, other body corporate and politic, or other body so authorized as aforesaid.

9. CHURCHWARDEN'S AND SIDESMAN'S OATH ABOLISHED, AND A DECLARATION SUBSTITUTED.—[*Recital as to oath of office at present required to be taken by churchwarden and sidesman.*] In future every person entering upon the office of churchwarden or sidesman, before beginning to discharge the duties thereof, shall, in lieu of such oath of office, make and subscribe, in the presence of the ordinary or other person before whom he would, but for the passing of this Act, be required to take such oath, a declaration that he will faithfully and diligently perform the duties of his office, and such ordinary or other person is hereby empowered and required to administer the same accordingly: Provided always, that no churchwarden or sidesman shall in future be required to take any oath on quitting office as has heretofore been practised.

10. DECLARATIONS SUBSTITUTED FOR OATHS AND AFFIDAVITS BY PERSONS ACTING UNDER HIGHWAYS ACTS, &C.—In any case where, under any Act or Acts for making, maintaining, or regulating any highway, or any road, or any turnpike road, or for paving, lighting, watching, or improving any city, town, or place, or touching any trust relating thereto, any oath, solemn affirmation, or affidavit might, but for the passing of this Act, be required to be taken or made by any person whomsoever, no such oath, solemn affirmation, or affidavit shall in future be required to be or be taken or made, but the person who might under the Act or Acts imposing the same be required to take or make such oath, solemn affirmation, or affidavit shall, in lieu thereof, in the presence of the trustee, commissioner, or other person before whom he might under such Act or Acts be required to take or make the same, make and subscribe a declaration to the same effect as such oath, solemn affirmation, or affidavit; and such trustee, commissioner, or other person is hereby empowered and required to administer and receive the same.

[*S.* **11** *rep.* 46 *&* 47 *Vict. c.* 57, *s.* 113.]

12. DECLARATIONS SUBSTITUTED FOR OATHS AND AFFIDAVITS REQUIRED BY ACTS AS TO PAWNBROKERS—PENALTIES AS TO SUCH OATHS, &C. TO APPLY TO DECLARATIONS.—Where by any Act or Acts at the time in force for regulating the business of pawnbrokers any oath, affirmation, or affidavit might, but for the passing of this Act, be required to be taken or made, the person who by or under such Act or Acts might be required to take or make such oath, affirmation, or affidavit, shall in lieu thereof make and subscribe a declaration to the same effect; and such declaration shall be made and subscribed at the same time, and on the same occasion, and in the presence of the same person or persons, as the oath, affirmation, or affidavit, in lieu whereof it shall be made and subscribed, would by the Act or Acts directing or requiring the same be directed or required to be taken or made; and all and every the enactments, provisions, and penalties contained in or imposed by any such Acts or Acts, as to any oath, affirmation, or affidavit thereby directed or required to be taken or made, shall extend and apply to any declaration in lieu thereof, as well and in the same manner as if the same were herein expressly enacted with reference thereto.

13. JUSTICES, &C. NOT TO ADMINISTER OATHS, &C. TOUCHING MATTERS WHEREOF THEY HAVE NO JURISDICTION BY STATUTE—PROVISO AS TO CERTAIN OATHS.—[*Recital as to practice of administering and receiving oaths and affidavits voluntarily taken and made in matters not the subject of any judicial inquiry, &c.*] It shall not be lawful for any justice of the peace or other person to administer or cause or allow to be administered, or to receive or cause or allow to be received, any oath, affidavit, or solemn affirmation, touching any matter or thing whereof such justice or other person hath not jurisdiction or cognizance by some statute in force at the time being: Provided always, that nothing herein contained shall be construed to extend to any oath, affidavit, or solemn affirmation before any justice in any matter or thing touching the preservation of the peace, or the prosecution, trial, or punishment of offences, or touching any proceedings before either of the Houses of Parliament or any committee thereof respectively, nor to any

oath, affidavit, or affirmation which may be required by the laws of any foreign country to give validity to instruments in writing designed to be used in such foreign countries respectively.

14. Declarations substituted for Oaths and Affidavits required by Bank of England on the transfer of Stock.—In any case in which it has been the usual practice of the Bank of England to receive affidavits on oath to prove the death of any proprietor of any stocks or funds transferable there, or to identify the person of any such proprietor, or to remove any other impediment to the transfer of any such stocks or funds, or relating to the loss, mutilation, or defacement of any bank note or bank post bill, no such oath or affidavit shall in future be required to be taken or made, but in lieu thereof the person who might have been required to take or make such oath or affidavit shall make and subscribe a declaration to the same effect as such oath or affidavit.

15. Declarations substituted for Oaths and Affidavits required by 5 Geo. 2, c. 7, and 54 Geo. 3, c. 15.—[*Recital of* 5 *Geo.* 2, *c.* 7, *and* 54 *Geo.* 3, *c.* 15] In any action or suit brought or intended to be brought in any court of law or equity within any of the territories, plantations, colonies, or dependencies abroad, being within and part of his Majesty's dominions, for or relating to any debt or account, wherein any person residing in Great Britain and Ireland shall be a party, or for or relating to any lands, tenements, or hereditaments or other property situate, lying, and being in the said places respectively, it shall and may be lawful to and for the plaintiff or defendant, and also to and for any witness to be examined or made use of in such action or suit, to verify or prove any matter or thing relating thereto by solemn declaration or declarations in writing in the form in the schedule hereunto annexed, made before any justice of the peace, notary public, or other officer now by law authorized to administer an oath, and certified and transmitted under the signature and seal of any such justice, notary public duly admitted and practising, or other officer; which declaration, and every declaration relative to such matter or thing as aforesaid, in any foreign kingdom or state, or to the voyage of any ship or vessel, every such justice of the peace, notary public, or other officer shall be and he is hereby authorized and empowered to administer or receive; and every declaration so made, certified, and transmitted, shall in all such actions and suits be allowed to be of the same force and effect, as if the person or persons making the same had appeared and sworn or affirmed the matters contained in such declaration vivâ voce in open court, or upon a commission issued for the examination of witnesses or of any party in such action or suit respectively; provided that in every such declaration there shall be expressed the addition of the party making such declaration and the particular place of his or her abode.

16. Declaration in writing sufficient to prove execution of any Will, Codicil, &c.—It shall and may be lawful to and for any attesting witness to the execution of any will or codicil, deed or instrument in writing, and to and for any other competent person, to verify and prove the signing, sealing, publication, or delivery of any such will, codicil, deed, or instrument in writing, by such declaration in writing made as aforesaid; and every such justice, notary, or other officer shall be and is hereby authorized and empowered to administer or receive such declaration.

17. Crown Debts in Suits on behalf of his Majesty to be proved by Declaration.—In all suits now depending or hereafter to be brought in any court of law or equity by or in behalf of his Majesty, in any of his said Majesty's territories, plantations, colonies, possessions, or dependencies, for or relating to any debt or account, his Majesty shall and may prove his debts and accounts and examine his witness or witnesses by declaration, in like manner as any subject or subjects is or are empowered or may do by this present Act.

18. Voluntary Declaration in the form in the Schedule may be taken—Making False Declaration a misdemeanor.—[*Recital*] It shall and may be lawful for any justice of the peace, notary public, or other officer now by law authorized to administer an oath, to take and receive the declaration of any person voluntarily making the same before him in the form in the schedule to this Act annexed; and if any declaration so made shall be false or untrue in any material particular, the person wilfully making such false declaration shall be deemed guilty of a misdemeanor.

19. Fees payable on Oath shall be paid on Declarations substituted in lieu thereof.—Whenever any declaration shall be made and subscribed by any person or

persons under or in pursuance of the provisions of this Act or any of them, all and every such fees or fee as would have been due and payable on the taking or making any legal oath, solemn affirmation, or affidavit shall be in like manner due and payable upon making and subscribing such declaration.

20. Declarations to be in the form prescribed in Schedule.—In all cases where a declaration in lieu of an oath shall have been substituted by this Act, or by virtue of any power or authority hereby given, or where a declaration is directed or authorized to be made and subscribed under the authority of this Act, or of any power hereby given, although the same be not substituted in lieu of an oath heretofore legally taken, such declaration, unless otherwise directed under the powers hereby given, shall be in the form prescribed in the schedule hereunto annexed.

21. Persons making False Declaration deemed guilty of a misdemeanor.—In any case where a declaration is substituted for an oath under the authority of this Act, or by virtue of any power or authority hereby given, or is directed and authorized to be made and subscribed under the authority of this Act, or by virtue of any power hereby given, any person who shall wilfully and corruptly make and subscribe any such declaration, knowing the same to be untrue in any material particular, shall be deemed guilty of a misdemeanor.

[*Ss.* **22, 23** *rep.* 37 *&* 28 *Vict. c.* 35 (*S.L.R.*).]

SCHEDULE referred to by the foregoing Act.

I A.B. do solemnly and sincerely declare, that and I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of [[1] an Act made and passed in the year of the reign of his present Majesty, intituled "An Act" (*here insert the title of this Act*).]

[1] *The short title* (*the Statutory Declarations Act*, 1835) *may be substituted in this form; see* 44 *&* 45 *Vict. c.* 41, *s.* 68.

CHAPTER LXV.

The Lectures Copyright Act, 1835 (*Short Titles Act*, 1896).

An Act for preventing the Publication of Lectures without Consent.

[9th September 1835.]

[*Preamble.*]

1. Authors of Lectures, or their Assigns, to have the sole right of publishing them—Penalty on other persons publishing, &c.—The author of any lecture or lectures, or the person to whom he hath sold or otherwise conveyed the copy thereof in order to deliver the same in any schools, seminary, institution, or other place, or for any other purpose, shall have the sole right and liberty of printing and publishing such lecture or lectures; and if any person shall, by taking down the same in short hand or otherwise in writing, or in any other way, obtain or make a copy of such lecture or lectures, and shall print or lithograph or otherwise copy and publish the same, or cause the same to be printed, lithographed, or otherwise copied and published, without leave of the author thereof, or of the person to whom the author thereof hath sold or otherwise conveyed the same, and every person who, knowing the same to have been printed or copied and published without such consent, shall sell, publish, or expose to sale, or cause to be sold, published, or exposed to sale, any such lecture or lectures, shall forfeit such printed or otherwise copied lecture or lectures, or parts thereof, together with one penny for every sheet thereof which shall be found in his custody, either printed, lithographed, or copied, or printing, lithographing, or copying, published or exposed to sale, contrary to the true intent and meaning of this Act, the one moiety thereof to his Majesty, and the other moiety thereof to any person who shall sue for the same, to be recovered in any of his Majesty's courts of record in Westminster. . . .

S. 1 *in part rep.* 51 *&* 52 *Vict. c.* 57 (*S.L.R.*).

2. Penalty on Printers or Publishers of Newspapers publishing Lectures

WITHOUT LEAVE.—Any printer or publisher of any newspaper who shall, without such leave as aforesaid, print and publish in such newspaper any lecture or lectures, shall be deemed and taken to be a person printing and publishing without leave within the provisions of this Act, and liable to the aforesaid forfeitures and penalties in respect of such printing and publishing.

3. PERSONS HAVING LEAVE TO ATTEND LECTURES NOT ON THAT ACCOUNT LICENSED TO PUBLISH THEM.—No person allowed for certain fee and reward, or otherwise, to attend and be present at any lecture delivered in any place, shall be deemed and taken to be licensed or to have leave to print, copy, and publish such lectures only because of having leave to attend such lecture or lectures.

4. ACT NOT TO PROHIBIT THE PUBLISHING OF LECTURES AFTER EXPIRATION OF THE COPYRIGHT—8 ANN. c. 21—54 GEO. 3, c. 156.—Provided always, that nothing in this Act shall extend to prohibit any person from printing, copying, and publishing any lecture or lectures which have or shall have been printed and published with leave of the authors thereof or their assignees, and whereof the time hath or shall have expired within which the sole right to print and publish the same is given by an Act passed in the eighth year of the reign of Queen Anne, intituled "An Act for the encouragement " of learning, by vesting the copies of printed books in the authors or purchasers of " such copies during the times therein mentioned," and by another Act passed in the fifty-fourth year of the reign of King George the Third, intituled "An Act to amend " the several Acts for the encouragement of learning, by securing the copies and copy- " right of printed books to the authors of such books, or their assigns."

5. ACT NOT TO EXTEND TO LECTURES DELIVERED WITHOUT NOTICE TO JUSTICES, &C.—Provided further, that nothing in this Act shall extend to any lecture or lectures, or the printing, copying, or publishing any lecture or lectures, or parts thereof, of the delivering of which notice in writing shall not have been given to two justices living within five miles from the place where such lecture or lectures shall be delivered two days at the least before delivering the same, or to any lecture or lectures delivered in any university or public school or college, or on any public foundation, or by any individual in virtue of or according to any gift, endowment, or foundation; and that the law relating thereto shall remain the same as if this Act had not been passed.

CHAPTER LXXVIII.

THE REPRESENTATION OF THE PEOPLE (SCOTLAND) ACT, 1835 (*Short Titles Act*, 1896).

AN ACT to explain and amend an Act passed in the Second and Third Year of the Reign of King William the Fourth, for amending the Representation of the People in Scotland; and to diminish the Expenses there.

[9th September 1835.]

[*Preamble reciting that it is expedient that the time for fixing the day of election of members to serve in Parliament for cities, burghs, or towns in Scotland should be shortened after the receipts of the writs by the sheriff, and reciting* 2 *&* 3 *Will.* 4, *c.* 65, *s.* 28, *rep.* 51 *&* 52 *Vict. c.* 57 (*S.L.R.*).]

[*Ss.* **1, 2** *rep.* 35 *&* 36 *Vict. c.* 33, *s.* 32 (*temp.*).]

3. SHERIFF MAY ALTER POLLING PLACES AND DISTRICTS.—The sheriff may, if required by or on behalf of any candidate, or, if not so required, if it shall appear to him expedient, increase or alter the number, situation, or arrangement of the existing polling places and districts, or parts thereof, so that not more than three hundred electors shall be allotted to poll in each booth or compartment for any of the cities, burghs, or towns within his shire, and where an alteration has been made by the sheriff in the number, situation, or arrangement of the polling places in any such city, burgh, or town, the town clerk shall forthwith make up a list of the polling places, and cause copies thereof to be affixed to the doors of all the parish or town churches within such city, burgh, or town.

4. ON REQUISITION, SHERIFF SHALL ARRANGE BOOTHS, &C. SO THAT NOT MORE THAN 100 ELECTORS SHALL POLL IN EACH.—On the requisition of any candidate, or of any elector

being the proposer or seconder of any candidate, the booths or compartments at each polling place shall be so divided and arranged by the sheriff or his substitute duly authorized by him that not more than one hundred electors shall be allotted to poll in each such booth or compartment: Provided always, that such candidate or elector making such requisition shall pay all expenses incident upon such division or arrangement.

5. Proviso for closing Poll by agreement—Proviso for Adjournment in case of Riot, &c.—[*Provision that no poll shall be kept open for more than one day, rep.* 51 *&* 52 *Vict. c.* 57 (*S.L.R.*)]; provided always, that at any time after a poll has been demanded the poll at any one place may be closed if all the candidates or their agents and the sheriff or his substitute shall agree in so closing it; . . . : Provided also, that where the proceedings at any election shall be interrupted or obstructed by any riot or open violence, whether such proceedings shall consist of the nomination of candidates or of the taking the poll, the sheriff, or his substitute at the place where the riot or open violence has occurred, may adjourn the nomination or the taking the poll at the particular polling place or places at which such riot or open violence shall have happened to the following day or some other convenient time, and, if necessary, may repeat such adjournment till such interruption or obstruction shall have ceased, he always giving notice to the sheriff, or his substitute who is to make the return, of such adjournment having been made; and the state of the poll shall not be finally declared, nor the result of the election proclaimed, until the poll so interrupted or obstructed shall be closed and transmitted to the sheriff or his substitute who is to make the return.

S. 5 *in part rep.* 35 *&* 36 *Vict. c.* 33, *s.* 32 (*temp.*).

[*Ss.* **6–8** *rep.* 35 *&* 36 *Vict. c.* 33, *s.* 32 (*temp.*).]

9. Any Freeholder may apply to poll in District of County Town, &c.—Any freeholder of any county or shire in Scotland, whose rights are preserved to him by the said recited Act, shall be entitled to make application to the sheriff of such county or shire, and upon one month's notice thereof being published on the doors of the said sheriff court, to poll at all times thereafter at the polling place for the district within which the county town is situated; and the sheriff shall delete his name from the district list, and insert it in that for the district in which the county town is situate: Provided always, that after making such application to the said sheriff, and publishing such notice on the doors of the said sheriff court, it shall not be lawful for the said freeholder to poll in any other district of such county or shire; and provided also, that where a fiar and life renter are registered in respect of the same freehold qualification they shall both concur in the said application.

10. Vote of Fiar of a Freehold not to be reckoned at any Election where Life Renter has voted on same qualification.—The vote of any fiar of a freehold qualification in any county or shire in Scotland, whose rights are preserved to him by the said recited Act, shall always be taken by the sheriff on a paper apart, and shall not be reckoned by him in casting up the votes at any election where it shall appear that the life renter has voted.

11. Provision for necessary absence of Sheriff and vacancy in Office.—Where a sheriff is necessarily absent from any place where any duty, other than that of acting as a judge of appeal, is required of him by the said recited Act or by this Act, it shall be competent for him to appoint a special substitute to act for him at such place; and in the event of no such special substitution, his ordinary substitute at the place shall be entitled and is hereby required to act in his room; and if the office of sheriff shall at any time be vacant by death or resignation, when any of the duties imposed by the said recited Act or by this Act (other than those imposed upon him as a judge of appeal) are required to be performed, the ordinary substitute at the head burgh of the shire appointed by the former sheriff shall be entitled and is hereby required to act until a successor to such former sheriff shall be appointed and be in a capacity to act.

[*Ss.* **12, 13, 15** *rep.* 35 *&* 36 *Vict. c.* 33, *s.* 32 (*temp.*). *S.* **14** *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).]

6 & 7 WILLIAM IV, 1836.

CHAPTER XI.

THE REGISTRATION OF ALIENS ACT, 1836 (*Short Titles Act*, 1896).

AN ACT for the Registration of Aliens, ... [19th May 1836.]

Title in part rep. 51 & 52 *Vict. c.* 57 (*S.L.R.*).

[*Preamble recites* 7 *Geo.* 4, *c.* 54.]

[*S.* 1 (*repealing recited Act*) *rep.* 37 & 38 *Vict. c.* 35 (*S.L.R.*).]

2. MASTERS OF VESSELS ARRIVING FROM FOREIGN PARTS TO DECLARE WHAT ALIENS ARE ON BOARD OR HAVE LANDED FROM THEIR VESSELS—PENALTY FOR OMISSION OF DECLARATION—SAVING AS TO MARINERS NAVIGATING THE VESSEL.—The master of every vessel which shall arrive in this realm from foreign parts shall immediately on his arrival declare in writing to the chief officer of the customs at the port of arrival whether there is, to the best of his knowledge, any alien on board his vessel, and whether any alien hath, to his knowledge, landed therefrom at any place within this realm, and shall in his said declaration specify the number of aliens (if any) on board his vessel, or who have, to his knowledge, landed therefrom, and their names, rank, occupation, and description, as far as he shall be informed thereof; and if the master of any such vessel shall refuse or neglect to make such declaration, or shall wilfully make a false declaration, he shall for every such offence forfeit the sum of twenty pounds, and the further sum of ten pounds for each alien who shall have been on board at the time of the arrival of such vessel, or who shall have, to his knowledge, landed therefrom within this realm, whom such master shall wilfully have refused or neglected to declare; and in case such master shall neglect or refuse forthwith to pay such penalty, it shall be lawful for any officer of the customs, and he is hereby required, to detain such vessel until the same shall be paid: Provided always, that nothing herein-before contained shall extend to any mariner actually employed in the navigation of such vessel, during the time that such mariner shall remain so actually employed.

3. ALIEN ON ARRIVAL FROM ABROAD TO DECLARE HIS NAME, DESCRIPTION, &C. AND PRODUCE HIS PASSPORT.—Every alien, who shall arrive in any part of the United Kingdom from foreign parts, shall immediately after such arrival present and show to the chief officer of the customs at the port of debarkation, for his inspection, any passport which may be in his or her possession, and declare in writing to such chief officer, or verbally make to him a declaration, to be by him reduced into writing, of the day and place of his or her landing, and of his or her name, and shall also declare to what country he or she belongs and is subject, and the country and place from whence he or she shall then have come; which declaration shall be made in or reduced into such form as shall be approved by one of his Majesty's principal secretaries of state; and if any such alien coming into this realm shall neglect or refuse to present and show any passport which may be in his or her possession, or if he or she shall neglect or refuse to make such declaration, he or she shall forfeit the sum of two pounds.

4. OFFICER OF CUSTOMS TO REGISTER THE DECLARATION, AND DELIVER A CERTIFICATE TO THE ALIEN.—The officer of the customs to whom such passport shall be shown and declaration made shall immediately register such declaration in a book to be kept by him for that purpose, (in which book certificates shall be printed in blank, and counterparts thereof, in such form as shall be approved by one of his Majesty's principal secretaries of state,) and shall insert therein the several particulars by this Act required in proper columns in both parts thereof, and shall deliver one part thereof to the alien who shall have made such declaration.

5. OFFICER OF CUSTOMS TO TRANSMIT DECLARATION, &C. TO SECRETARY OF STATE, &C.—The chief officer of the customs in every port shall within two days transmit a true copy of the declaration of every master of a vessel, and a true copy of every such certificate, if in Great Britain, to one of his Majesty's principal secretaries of state, and, if such alien shall have arrived from any foreign country in Ireland, he shall transmit a true copy of such declaration and of such certificate to the chief secretary for Ireland.

6. CERTIFICATE OF ALIEN DEPARTING THE REALM TO BE TRANSMITTED TO SECRETARY

OF STATE.—Any alien about to depart from this realm shall before his or her embarkation deliver any certificate, which he or she shall have received under the provisions of this Act, to the chief officer of the customs at the port of departure, who shall insert therein that such alien hath departed this realm, and shall forthwith transmit the same to one of his Majesty's principal secretaries of state, or to the chief secretary for Ireland, as the case may be, in like manner as herein-before is directed in respect to the certificate given to an alien on his or her arrival in this realm.

7. NEW CERTIFICATES TO BE ISSUED IN LIEU OF SUCH AS ARE LOST.—If any certificate issued to any alien by virtue of this Act shall be lost, mislaid, or destroyed, and such alien shall produce to one of his Majesty's justices of the peace proof thereof, and shall make it appear to the satisfaction of such justice that he or she hath duly conformed with this Act, it shall be lawful for such justice, and he is hereby required, to testify the same under his hand; and such alien shall thereupon be entitled to receive from one of his Majesty's principal secretaries of state, or from the chief secretary for Ireland, as the case may be, a fresh certificate, which shall be of the like force and effect as the certificate so lost, mislaid, or destroyed.

8. CERTIFICATE TO BE GRANTED WITHOUT FEE—PENALTY FOR TAKING FEES FOR THINGS DONE UNDER THIS ACT.—All certificates herein-before required to be given shall be given without fee or reward whatsoever; and every person who shall take any fee or reward of any alien or other person, for any certificate, or any other matter or thing done under this Act, shall forfeit for every such offence the sum of twenty pounds; and every officer of the customs who shall refuse or neglect to make such entry as aforesaid or grant any certificate thereon, in pursuance of the provisions of this Act, or shall knowingly make any false entry, or neglect to transmit the copy thereof, or to transmit any declaration of the master of a vessel, or any declaration of departure, in manner directed by this Act, shall forfeit for every such offence the sum of twenty pounds.

9. PENALTY FOR MAKING FALSE DECLARATIONS, FORGING CERTIFICATES, &C.—If any person shall wilfully make or transmit any false declaration, or shall wilfully forge, counterfeit, or alter, or cause to be forged, counterfeited, or altered, or shall utter, knowing the same to be forged, counterfeited, or altered, any declaration or certificate hereby directed, or shall obtain any such certificate under any other name or description than the true name and description of the alien intended to be named and described, without disclosing to the person granting such certificate the true name and description of such alien, or shall falsely pretend to be the person intended to be named and described in any such certificate, every person so offending shall, upon conviction thereof before two justices, either forfeit any sum not exceeding one hundred pounds, or be imprisoned for any time not exceeding three calendar months, at the discretion of such justices.

10. PROSECUTION OF OFFENCES.—All offences against this Act shall be . . . prosecuted before two or more justices of the peace of the place where the offence shall be committed, who are required, in default of payment of any pecuniary penalty, to commit the offender to the common gaol . . . and forthwith to report to one of his Majesty's principal secretaries of state, or to chief secretary for Ireland, as the case may require, the conviction of every offender under this Act, and the punishment to which he is adjudged; and no writ of certiorari or of advocation or suspension shall be allowed to remove the proceedings of any justices touching the cases aforesaid, or to supersede or suspend execution or other proceeding thereupon.

S. 10 *in part rep.* 54 & 55 *Vict. c.* 67 (*S.L.R.*).

11. THIS ACT NOT TO AFFECT FOREIGN MINISTERS OR THEIR SERVANTS; NOR ALIENS WHO HAVE BEEN RESIDENT THREE YEARS, AND OBTAINED CERTIFICATE THEREOF; NOR ALIENS UNDER FOURTEEN YEARS OF AGE.—Provided always that nothing in this Act contained shall affect any foreign ambassador or other public minister duly authorized, nor any domestic servant of any such foreign ambassador or public minister, registered as such according to law, or being actually attendant upon such ambassador or minister; nor any alien who shall have been continually residing within this realm for three years next before the passing of this Act, or who shall hereafter at any time complete such residence of three years, and who shall have obtained from one of his Majesty's principal secretaries of state, or from the chief secretary for Ireland, a certificate thereof; nor any alien, in respect of any act done or omitted to be done, who shall be under the age of fourteen years at the time when such act was so done or omitted to be

done: Provided always, that if any question shall arise whether any person alleged to be an alien, and to be subject to the provisions of this Act, is an alien or not, or is or is not subject to the said provisions or any of them, the proof that such person is, or by law is to be deemed to be, a natural-born subject of his Majesty, or a denizen of this kingdom, or a naturalized subject, or that such person, if an alien, is not subject to the provisions of this Act or any of them, by reason of any exception contained in this Act or otherwise, shall lie on the person so alleged to be an alien and to be subject to the provisions of this Act.

[*Ss.* **12, 13** *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).]

CHAPTER XXII.

THE BASTARDS (SCOTLAND) ACT, 1836 (*Short Titles Act*, 1896).

AN ACT to enable Bastards in Scotland to make Testaments.

[21st June 1836.]

[*Preamble.*]

1. BASTARDS IN SCOTLAND MAY DISPOSE OF MOVEABLE ESTATES BY TESTAMENT.—It shall be lawful to bastards or natural children domiciled in Scotland to dispose of their moveable estates by testament or last will in like manner as other persons belonging to that country may do; any law or practice to the contrary notwithstanding.

CHAPTER XXVIII.

THE GOVERNMENT OFFICES SECURITY ACT, 1836 (*Short Titles Act*, 1896).

AN ACT to enable Persons to make Deposits of Stock or Exchequer Bills in lieu of giving Security by Bond to the Postmaster General, and Commissioners of Land Revenue, Customs, Excise, Stamps, and Taxes.[1]

[4th July 1836.]

[1] *This Act is extended to Inland Revenue*, 53 *&* 54 *Vict. c.* 21, *s.* 5.

[*Preamble refers to security which may be required in respect of any matter relating to the revenues of the post office, land revenue, customs, excise, stamps, or taxes.*]

1. PERSONS REQUIRED TO GIVE SECURITY TO DIFFERENT DEPARTMENTS OF THE REVENUE MAY DO SO BY A TRANSFER OF STOCK OR DEPOSIT OF EXCHEQUER BILLS.—It shall be lawful for any person or persons or for any bodies corporate from whom any such security is required, and who may be desirous of adopting the provisions of this Act, in lieu of giving the same by bond, by and with the consent of the Treasury, to transfer into the name of the postmaster general, or of the chief commissioner of his Majesty's woods, forests, land revenues, works, and buildings, or of the chairman for the time being of the commissioners of that department of the revenue in respect of which such security is required, in the books of the Bank of England, so much of any public stock standing in the said books in the name or names of such person or persons or bodies corporate, or to deposit in the Bank of England in the name of the said postmaster general, or chief commissioner, or of such chairman, such an amount of Exchequer bills, as shall be in the judgment of the Treasury, a sufficient security and indemnification against all contraventions of the duty or purpose for the due performance of which such security was required.

2. SUCH STOCK OR BILLS TO BE SOLD UPON CERTIFICATE OF DEFAULT IN THE CONDITIONS OF DEPOSIT, AND THE PRODUCE PAID TO THE DEPARTMENT SUFFERING BY THE DEFAULT.—It shall be lawful for the said postmaster general upon the certificate of the accountant general of the post office, and for such chief commissioner and for such chairman as aforesaid upon the certificate of any two or more of the commissioners of such department of the revenue, that the revenue has been damnified by any act done or any

payment or duty omitted in contravention of the duty or purpose for the due performance of which such security was required as herein-before mentioned, and they and each of them are hereby required, to sell so much of such stock or of such Exchequer bills as shall be necessary to make good any loss so occasioned, and to pay the proceeds thereof to the receiver general of that department of revenue in respect of which such loss has been sustained.

3. Such Stock or Bills to stand in the Bank Books in the name of the Postmaster General, &c., and not be transferred except upon Certificate.—When any stock shall be transferred, or any deposit of Exchequer bills shall be made, in pursuance of this Act, the said stock shall be transferred into and the said Exchequer bills shall be deposited in the name of his Majesty's postmaster general, the said chief commissioner, or the chairman of the board of customs, excise, or stamps and taxes, as the case may be; and the account into which such stock shall be transferred, or in which such deposit shall be made, shall be so headed in the books of the Bank of England; and no transfer of such stock, or delivery or sale of such Exchequer bills, shall be made, except upon such certificate as is herein mentioned.

4. Form of Certificate.—Every such certificate shall be drawn up in the form given in the schedule annexed to this Act.

5. A declaration of the purposes for which the Security is given to be made in the form given in the Schedule.—Upon every such transfer or deposit as aforesaid a declaration of the purposes for which the security is given, in the form given in the schedule annexed to this Act, shall be signed by the person or persons, or by the treasurer or secretary or other chief officer of any body corporate, transferring such stock or making such deposit, and by the postmaster general, or the said chief commissioner, or by any two or more of the commissioners of the department of the revenue requiring such security; and such declaration shall be deposited with the said postmaster general, such chief commissioner, or with such commissioners.

6. Such Declaration, &c. to apply to Exchequer Bills received in exchange for those deposited.—The declaration to be signed as aforesaid, and all the provisions in this Act contained relating to the deposit of Exchequer bills, shall be deemed to apply as well to the particular bills so to be deposited, as to any other bills to be received from time to time in exchange for such bills, or for the bills from time to time received in exchange, in consequence of such bills or any of them being ordered to be paid off.

7. The Treasury, Postmaster General, &c. not personally liable for Acts done by them in pursuance of this Act.—Neither the Treasury, nor the said postmaster general, nor the said chief commissioner, nor the said chairman, nor the said commissioners of the said departments of the revenue, nor any of them, shall be in any way personally liable for any act done by them or any of them in pursuance of this Act; but all actions and suits, both at law and in equity, commenced against them or any of them in pursuance of this Act, shall be null and void, and shall be quashed and vacated, upon summary motion, by the court in which they are commenced; which court is hereby required to give to the defendant in such an action or suit the full costs of such motion, to be taxed as between attorney and client.

8. Stock so transferred and Exchequer Bills so deposited to vest in Successors of Depositees.—All stock transferred to and all deposits of Exchequer bills made in the name of the said postmaster general, or of such chief commissioner, or of the said chairmen respectively, by virtue of this Act, shall have the effect of vesting such stock or Exchequer bills for the purposes of this Act in the postmaster general, such chief commissioner, and in such chairmen for the time being, and their successors, who are hereby authorized and required to make sales of stock and Exchequer bills as is herein mentioned.

[*S.* 9 *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).]

10. Such Stock or Exchequer Bills to be re-transferred upon Certificate that Security is no longer required.—It shall be lawful for the said postmaster general, such chief commissioner, and for the chairmen respectively, and their successors, and they are hereby required, upon the application of the person or persons or bodies corporate transferring such stock or depositing such Exchequer bills, and upon the certificate of the accountant general of the post office, or of any two or more of the

commissioners of the revenue upon whose account such transfer or deposit has been made, that such transfer or deposit is no longer necessary for the security of the revenue under their charge, to re-transfer such stocks or to deliver up such Exchequer bills to the person or persons or bodies corporate who transferred or deposited the same.

11. Re-transfer to personal Representatives of Depositors.—Such re-transfer or delivery made to the personal representatives of any person or persons transferring or depositing such stock or Exchequer bills shall be valid and effectual to all intents and purposes whatever.

12. Joint Stock Companies may have the benefit of this Act.—Where any joint stock companies, having any joint stock or Exchequer bills in the name or names of any person or persons as trustees for the partners forming such company, shall be desirous of making any transfer of stock or deposit of Exchequer bills for the purposes mentioned in this Act, it shall be lawful for them so to do, and all the provisions in this Act shall apply to transfers and deposits so made.

13. Bank of England indemnified for any acts done by them in pursuance of this Act.—The Bank of England shall be and are hereby indemnified for any act done or permitted to be done by them in pursuance of this Act; and all actions and suits, both at law and in equity, commenced against the Bank of England for and in respect of any such act or acts, shall be null and void, and shall be quashed and vacated, upon summary motion, by the court in which they are commenced; which court is hereby required to give to the defendant in such an action or suit the full costs of such motion, to be taxed as between attorney and client.

14. Courts at Westminster to determine Disputes about Defaults; and may order the repayment of Money paid by virtue of this Act.—And whereas disputes may arise between parties making transfers and deposits in manner herein-before mentioned, whether any default has been made or any damage has been sustained to the amount certified in manner herein-before mentioned: Be it further enacted, that all such disputes shall be determined in a summary manner in one or other of his Majesty's courts of King's Bench, Common Pleas, or Exchequer at Westminster, and that there shall be no appeal against any decision so made: Provided always, that if it shall seem just to the judges of any of the said courts that any sum of money paid by virtue of this Act should be repaid, to order the receiver general of the revenue to which it has been paid to repay the same to such person or persons and on such account as the said judges shall think fit.

15. Sums paid to be allowed in Account to Receiver General paying them.—Any sum of money paid by any receiver general under such an order shall be allowed to him in account, and such receiver shall not be again called upon for such sum in any manner whatsoever; and any proceedings instituted to compel such receiver general to pay such sum shall be null and void, and shall be set aside by the court in which the same may have been instituted, upon summary motion.

16. Judges may direct Questions to be tried by a Jury.—It shall be lawful for the judges of any of the said courts to direct that any question arising before them upon such proceeding may be tried by a jury in such manner as such judges shall direct.

[*S.* **17** *rep.* 37 *&* 38 *Vict. c.* 36 (*S.L.R.*).]

SCHEDULE to which this Act refers.

Form of Declaration.

It is hereby declared, that has [transferred stock, or hath deposited Exchequer bills, as the case may be] to the amount of as a security for pursuant to the provisions of an Act of Parliament passed, *et cetera.*

Form of Certificate.

To His Majesty's Postmaster General, [or to the Chief Commissioner of His Majesty's Woods, Forests, Land Revenues, Works, and Buildings, or Chairman of as the case may be].

Whereas on the day of stock [or Exchequer

bills] were transferred [or deposited, as the case may be] as a security for [state the purpose for which the security was given] This is to certify, that [state the breaches] and that the revenue of hath been thereby damnified to the extent of [or that such security is no longer necessary].

CHAPTER XXXIII.

THE ERASURES IN DEEDS (SCOTLAND) ACT, 1836 (*Short Titles Act*, 1896).

AN ACT to amend and regulate the Law of Scotland as to Erasures in Instruments of Sasine and of Resignation ad remanentiam.[1] [14th July 1836.]

[1] *Extended to all instruments*, 31 & 32 *Vict. c.* 101, *s.* 144.

[*Preamble recites Scots Acts*, 1617, *c.* 16, 1669, *c.* 3, *and* 1681, *c.* 5.]

1. RESTRICTION ON CHALLENGES OF INSTRUMENTS OF SASINE OR RESIGNATION AD REMANENTIAM ON ACCOUNT OF ERASURES.—No challenge of any instrument of sasine or resignation ad remanentiam shall hereafter receive effect, either by reduction or exception, on the ground that any part of the said instrument is written on an erasure, unless it shall be averred and proved that such erasure had been made for the purpose of fraud, or the record thereof is not conformable to the instrument as presented for registration: . . . Provided also, that nothing herein contained shall extend or be construed to extend to instruments of sasine or resignation and sasine propriis manibus; provided also, that where any feudal title of property or title in security has been completed in order to remedy or supply defects arising from erasures in instruments of sasine, the validity of the said titles shall not be affected by any thing herein contained.

S. 1 *in part rep.* 37 & 38 *Vict. c.* 35 (*S.L.R.*).

[*S.* **2** *rep.* 37 & 38 *Vict. c.* 35 (*S.L.R.*).]

CHAPTER XXXVII.

THE BREAD ACT, 1836 (*Short Titles Act*, 1896).

AN ACT to repeal the several Acts now in force relating to Bread to be sold out of the City of London and the Liberties thereof, and beyond the Weekly Bills of Mortality and Ten Miles of the Royal Exchange; and to provide other Regulations for the making and Sale of Bread, and for preventing the Adulteration of Meal, Flour, and Bread, beyond the Limits aforesaid. [28th July 1836.]

[*Preamble recites* 3 *Geo.* 4, *c. cvi.*]

[*S.* **1** *rep.* 53 & 54 *Vict. c.* 51 (*S.L.R.*).]

2. BREAD MADE OF THE ARTICLES HEREIN MENTIONED MAY BE SOLD.—It shall and may be lawful for the several bakers or sellers of bread out of the city of London and the liberties thereof, and beyond the weekly bills of mortality and ten miles of the Royal Exchange, to make and sell or offer for sale, in his, her, or their shop, or to deliver to his, her, or their customer or customers, bread made of flour or meal of wheat, barley, rye, oats, buck wheat, Indian corn, peas, beans, rice, or potatoes, or any of them, and with any common salt, pure water, eggs, milk, barm, leaven, potato or other yeast, and mixed in such proportions as they shall think fit, and with no other ingredient or matter whatsoever, subject to the regulations herein-after contained.

3. BAKERS, &C. MAY MAKE AND SELL BREAD OF ANY WEIGHT OR SIZE.—It shall and may be lawful for the several bakers or sellers of bread beyond the limits aforesaid to

make and sell, or offer for sale in his, her, or their shop, or to deliver to his, her, or their customer or customers, bread made of such weight or size as such bakers or sellers of bread shall think fit; any law or usage to the contrary notwithstanding.

4. Bread to be sold by weight, and in no other manner—Penalty—Proviso for French and Fancy Bread and Rolls.—All bread sold beyond the limits aforesaid shall be sold by the several bakers or sellers of bread respectively beyond the said limits by weight; and in case any baker or seller of bread beyond the limits aforesaid shall sell or cause to be sold bread in any other manner than by weight, then and in such case every such baker or seller of bread shall for every such offence forfeit and pay any sum not exceeding forty shillings, which the magistrate or magistrates, justice or justices, before whom such offender or offenders shall be convicted, shall order and direct: Provided always, that nothing in this Act contained shall extend or be construed to extend to prevent or hinder any such baker or seller of bread from selling bread usually sold under the denomination of French or fancy bread or rolls without previously weighing the same.

5. Bakers to use Avoirdupois Weight—Penalty.—The several bakers or sellers of bread respectively beyond the said limits in the sale of bread shall use avoirdupois weight of sixteen ounces to the pound, according to the standard in the Exchequer, and the several gradations of the same for any less quantity than a pound; and in case any such baker or seller of bread shall at any time use any other than the avoirdupois weight, and the several gradations of the same, he, she, or they shall for every such offence forfeit and pay any sum not exceeding five pounds nor less than forty shillings, as the magistrate or magistrates, justice or justices, before whom such conviction shall take place, shall from time to time order and adjudge.

6. Bakers to provide in their Shops Beams, Scales, and Weights, &c. and to weigh Bread, &c.—Penalty.—Every baker or seller of bread beyond the limits aforesaid shall cause to be fixed in some conspicuous part of his, her, or their shop, on or near the counter, a beam and scales with proper weights, or other sufficient balance, in order that all bread there sold may from time to time be weighed in the presence of the purchaser or purchasers thereof, except as aforesaid; and in case any such baker or seller of bread shall neglect to fix such beam and scales, or other sufficient balance, in manner aforesaid, or to provide and keep for use proper beam and scales, and proper weights or balance, or shall have or use any incorrect or false beam or scales or balance, or any false weight not being of the weight it purports to be, according to the standard in the Exchequer, then and in every such case he, she, or they shall, for every such false beam and scales and balance, or false weight, forfeit and pay any sum not exceeding five pounds, which the magistrate or magistrates, justice or justices, before whom such offender or offenders shall be convicted, shall order and direct.

7. Bakers and Sellers of Bread, &c. delivering by Cart, &c. to be provided with Scales, Weights, &c. for weighing Bread—Penalty.—[1] Every baker or seller of bread beyond the limits aforesaid, and every journeyman, servant, or other person employed by such baker or seller of bread, who shall convey or carry out bread for sale in and from any cart or other carriage, shall be provided with and shall constantly carry in such cart or other carriage a correct beam and scales with proper weights, or other sufficient balance, in order that all bread sold by every such baker or seller of bread, or by his or her journeyman, servant, or other person, may from time to time be weighed in the presence of the purchaser or purchasers thereof, except as aforesaid; and in case any such baker or seller of bread, or his or her journeyman, servant, or other person, shall at any time carry out or deliver any bread without being provided with such beam and scales with proper weights, or other sufficient balance, or whose weights shall be deficient in their due weight according to the standard in the Exchequer, or shall at any time refuse to weigh any bread purchased of him, her, or them, or delivered by his, her, or their journeyman, servant, or other person, in the presence of the person or persons purchasing or receiving the same, then and in every such case every such baker or seller of bread shall for every such offence forfeit and pay any sum not exceeding five pounds, which the magistrate or magistrates, justice or justices, before whom such offender or offenders shall be convicted, shall order and direct.

[1] *See* 52 & 53 *Vict. c.* 21, *s.* 32.

8. Penalty for adulterating Bread—Names of Offenders to be published.—

No baker or other person or persons who shall make bread for sale beyond the limits aforesaid, nor any journeyman or other servant of any such baker or other person, shall at any time or times, in the making of bread for sale beyond such limits, use any mixture or ingredient whatsoever in the making of such bread, other than and except as herein-before mentioned, on any account or under any colour or pretence whatsoever, upon pain that every such person, whether master or journeyman, servant or other person, who shall offend in the premises, and shall be convicted of any such offence by the oath, or in case of a Quaker by affirmation, of one or more credible witness or witnesses, or by his, her, or their own confession, shall for every such offence forfeit and pay any sum not exceeding ten pounds . . . or in default thereof shall, by warrant under the hands and seals of the magistrate or magistrates, justice or justices, before whom such offender shall be convicted, be apprehended and committed to the house of correction or some prison of the city, county, borough, or place where the offence shall have been committed, or the offender or offenders shall be apprehended, there to remain . . . with or without hard labour from the time of such commitment, unless the penalty shall be sooner paid, as any such magistrate or magistrates, justice or justices, shall think fit and order; and it shall be lawful for the magistrate or magistrates, justice or justices, before whom any such offender or offenders shall be convicted, to cause the offender's name, place of abode, and offence to be published in some newspaper which shall be printed or published in or near the city, county, borough, or place where the offence shall have been committed, and to defray the expense of publishing the same out of the money to be forfeited as last mentioned, in case any shall be so forfeited, paid, or recovered.

S. 8 *in part rep.* 54 *&* 55 *Vict. c.* 67 (*S.L.R.*).

9. Penalty for adulterating Corn, Meal, or Flour; or selling Flour of one sort of Corn as the Flour of another sort.—If any person beyond the limits aforesaid shall put into any corn, meal, or flour, which shall be ground, dressed, bolted, or manufactured for sale beyond such limits, either at the time of grinding, dressing, bolting, or manufacturing the same, or at any other time, any ingredient or mixture whatsoever not being the real and genuine produce of the corn or grain which shall be so ground; or if any person shall beyond the limits aforesaid knowingly sell or offer or expose for sale, either separately or mixed, any meal or flour of one sort of corn or grain as the meal or flour of any other sort of corn or grain, or any ingredient whatsoever mixed with the meal or flour so sold or offered or exposed for sale; then and in every such case every person so offending shall, upon conviction before any one or more magistrate or magistrates, justice or justices, of the city, county, borough, or place where such offence shall have been committed, on the oath, or in case of a Quaker by affirmation, of one or more credible witness or witnesses, or by his, her, or their own confession, forfeit and pay for every such offence any sum not exceeding twenty pounds . . . .

S. 9 *in part rep.* 54 *&* 55 *Vict. c.* 67 (*S.L.R.*).

10. Bread made of mixed Meal or Flour to be marked with a roman M.—Penalty—Proviso as to Potato Yeast.—Every person who shall make for sale, or sell or expose for sale, beyond the limits aforesaid, any bread made wholly or partially of peas or beans, or potatoes, or of any sort of corn or grain other than wheat, shall cause all such bread to be marked with a large roman M.; and if any person shall at any time beyond the limits aforesaid make or sell, or expose for sale, any such bread without such mark as herein-before directed, then and in every such case every person so offending shall, upon conviction in manner herein-after mentioned, forfeit and pay for every pound weight of such bread, and so in proportion for any less quantity which shall be so made for sale, or sold or exposed for sale, without being so marked as aforesaid, any sum not exceeding ten shillings, as the magistrate or magistrates, justice or justices, before whom such conviction shall take place, shall from time to time order and adjudge: Provided always, that nothing in this Act contained shall extend or be construed to extend to require any bread made of the meal or flour of wheat only, and in the making of which potato yeast shall be used, to be marked as herein-before is mentioned.

11. Justices, &c. may search Premises of Millers, Bakers, &c., and if any adulterated Flour, Bread, &c. be found, the same may be seized and disposed of.—

It shall be lawful for any magistrate or magistrates, justice or justices of the peace, within the limits of their respective jurisdictions, and also for any peace officer or officers authorized by warrant under the hand and seal or hands and seals of any such magistrate or magistrates, justice or justices, (and which warrant any such magistrate or magistrates, justice or justices, is and are hereby empowered to grant,) at seasonable times in the daytime, to enter into any house, mill, shop, stall, bakehouse, bolting house, pastry warehouse, outhouse, or ground of or belonging to any miller, mealman, or baker, or other person who shall grind grain, or dress or bolt meal or flour, or make bread for reward or sale beyond the limits aforesaid, and to search or examine whether any mixture or ingredient not the genuine produce of the grain such meal or flour shall import or ought to be shall have been mixed up with or put into any meal or flour in the possession of such miller, mealman, or baker, either in the grinding of any grain at the mill, or in the dressing, bolting, or manufacturing thereof, whereby the purity of any meal or flour is or shall be in anywise adulterated, or whether any mixture or ingredient other than is allowed by this Act shall have been mixed up with or put into any dough or bread in the possession of any such baker or other person, whereby any such dough or bread is or shall be in anywise adulterated, and also to search for any mixture or ingredient which may be intended to be used in or for any such adulteration or mixture; and if on any such search it shall appear that any such meal, flour, dough, or bread so found shall have been so adulterated by the person in whose possession it shall then be, or any mixture or ingredient shall be found which shall seem to have been deposited there in order to be used in the adulteration of meal, flour, or bread, then and in every such case it shall be lawful for every such magistrate or magistrates, justice or justices of the peace, or officer or officers authorized as aforesaid respectively, within the limits of their respective jurisdictions, to seize and take any meal, flour, dough, or bread which shall be found in any such search, and deemed to have been adulterated, and all ingredients and mixtures which shall be found and deemed to have been used, or intended to be used, in or for any such adulteration as aforesaid; and such part thereof as shall be seized by any peace officer or officers authorized as aforesaid, shall, with all convenient speed after seizure, be carried to the nearest resident magistrate or magistrates, justice or justices of the peace, within the limits of whose jurisdiction the same shall have been so seized; and if any magistrate or magistrates, justice or justices, who shall make any such seizure in pursuance of this Act, or to whom anything so seized under the authority of this Act shall be brought, shall adjudge that any such meal, flour, dough, or bread so seized shall have been adulterated by any mixture or ingredient put therein other than is allowed by this Act, or shall adjudge that any ingredient or mixture so found as aforesaid shall have been deposited or kept where so found for the purpose of adulterating meal, flour, or bread, then and in any such case every such magistrate or magistrates, justice or justices of the peace, is and are hereby required, within the limits of their respective jurisdictions, to dispose of the same as he or they, in his or their discretion, shall from time to time think proper.

12. Penalty if Ingredients for adulteration of Meal or Bread are found in any Premises—Names of Offenders to be published.—Every miller, mealman, or baker beyond the limits aforesaid, in whose house, mill, shop, stall, bakehouse, bolting house, pastry warehouse, outhouse, ground, or possession any ingredient or mixture shall be found which shall, after due examination, be adjudged by any magistrate or magistrates, justice or justices of the peace, to have been deposited there for the purpose of being used in adulterating meal, flour, or bread, shall, on being convicted of any such offence, either by his, her, or their own confession, or by the oath, or in case of a Quaker by affirmation, of one or more credible witness or witnesses, forfeit and pay on every such conviction any sum not exceeding ten pounds . . . for the first offence, five pounds for the second offence, and ten pounds for every subsequent offence, or in default of payment thereof shall, by warrant under the hand and seal or hands and seals of the magistrate or magistrates, justice or justices, before whom such offender shall be convicted, be apprehended and committed to the house of correction or some prison of the city, county, or place where the offence shall have been committed, or the offender or offenders shall be apprehended, there to remain . . . with or without hard labour from the time of such commitment (unless the penalty be sooner paid), as any such magistrate or magistrates, justice or justices, shall think fit and order; and it shall be lawful for the magistrate or magistrates, justice or justices, before whom any

such offender shall be convicted, to cause the offender's name, place of abode, and offence to be published in some newspaper which shall be printed or published in or near the city, county, borough, or place where the offence shall have been committed, and to defray the expense of publishing the same out of the money to be forfeited as last mentioned, in case any shall be so forfeited, paid, or recovered.

S. 12 *in part rep.* 54 & 55 *Vict. c.* 67 (*S.L.R.*).

13. Penalty for obstructing search, &c.—Proceedings in case of Offences occasioned by wilful default of Journeymen and Servants.—If any person or persons shall wilfully obstruct or hinder any such search as herein-before is authorized to be made, or the seizure of any meal, flour, dough, or bread, or of any ingredient or mixture which shall be found on any such search, and deemed to have been lodged with an intent to adulterate the purity or wholesomeness of any meal, flour, dough, or bread, or shall wilfully oppose or resist any such search being made, or the carrying away any such ingredient or mixture as aforesaid, or any meal, flour, dough, or bread which shall be seized as being adulterated, or as not being made pursuant to this Act, he, she, or they so doing or offending in any of the cases last aforesaid shall for every such offence, on being convicted thereof, forfeit and pay such sum, not exceeding ten pounds, as the magistrate or magistrates, justice or justices, before whom such offender or offenders shall be convicted, shall think fit and order: Provided also, that if any person making or who shall make bread for sale beyond the limits aforesaid shall at any time make complaint to any magistrate or magistrates, justice or justices of the peace, within his or their jurisdiction, and make appear to him or them, by the oath, or in case of a Quaker by affirmation, of any credible witness, that any offence which such person shall have been charged with, and for which he or she shall have incurred and paid any penalty under this Act, shall have been occasioned by or through the wilful act, neglect, or default of any journeyman, or other servant employed by or under such person so making complaint, then and in any such case any such magistrate or magistrates, justice or justices, may and is or are hereby required to issue out his or their warrant, under his or their hand and seal or respective hands and seals, for bringing any such journeyman or servant before any such magistrate or magistrates, justice or justices, or any magistrate or justice of the peace acting in and for the city, county, division, or place where the offender can be found; and on any such journeyman or servant being thereupon apprehended and brought before any such magistrate or magistrates, justice or justices, he or they, within his or their respective jurisdictions, is and are hereby authorized and required to examine into the matter of such complaint, and on proof thereof upon oath or affirmation, to the satisfaction of any such magistrate or magistrates, justice or justices of the peace, who shall hear such complaint, then any such magistrate or magistrates, justice or justices, is and are hereby directed and authorized, by any order under his or their respective hand or hands, to adjudge and order what reasonable sum of money shall be paid by any such journeyman or servant to his master or mistress as or by way of recompence to him or her for the money he or she shall have paid by reason of the wilful act, neglect, or default of any such journeyman or servant; and if any such journeyman or servant shall neglect or refuse, on his conviction, to make immediate payment of the sum of money which any such magistrate or magistrates, justice or justices, shall order him to pay by reason of such his said wilful neglect or default, then any such magistrate or magistrates, justice or justices, within his or their respective jurisdiction, is or are hereby authorized and required, by warrant under his or their hand and seal or hands and seals, to cause such journeyman or servant to be apprehended and committed to the house of correction, or some other prison of the city, county, division, or place in which such journeyman or servant shall be apprehended or convicted, to be there kept to hard labour for any term not exceeding one calendar month. . . . . .

S. 13 *in part rep.* 54 & 55 *Vict. c.* 67 (*S.L.R.*).

14. Bakers not to bake Bread or Rolls on the Lord's Day, or sell Bread or bake Pies, &c. on that day, except between certain hours—Penalty for first Offence; second Offence; subsequent Offences—Bakings may be delivered till half-past one on the Lord's Day—Saving as to Scotland.—Provided always, that no master or mistress, journeyman, or other person exercising or employed in the trade or calling of a baker beyond the limits aforesaid, shall, on the Lord's Day, or on any part thereof, make or bake any bread, rolls, or cakes of any sort or kind, or shall, on any

other part of the said day after the hour of half-past one of the clock in the afternoon, sell or expose for sale, or permit or suffer to be sold or exposed for sale, any bread, rolls, or cakes of any sort or kind, or bake or deliver, or permit or suffer to be baked or delivered, any meat, pudding, pie, tart, or victuals, or in any other manner exercise the trade or calling of a baker, or be engaged or employed in the business or occupation thereof, save and except so far as may be necessary in setting and superintending the sponge to prepare the bread or dough for the following days baking; and every person offending against the last-mentioned regulations, or any one or more of them, and being thereof convicted before any justice of the peace of the city, county, or place where the offence shall be committed, within six days from the commission thereof, either upon the view of such justice, or on confession by the party, or proof by one or more witness or witnesses upon oath or affirmation, shall for every such offence pay and undergo the forfeiture, penalty, and punishment herein-after mentioned; (that is to say,) for the first offence the penalty of ten shillings, for the second offence the penalty of twenty shillings, and for the third and every subsequent offence respectively the penalty of forty shillings; and shall moreover, upon every such conviction, bear and pay the costs and expenses of the prosecution, such costs and expenses to be assessed, settled, and ascertained by the justice convicting, and the amount thereof, together with such part of the penalty as such justice shall think proper, to be allowed to the prosecutor or prosecutors for loss of time in instituting and following up the prosecution, at a rate not exceeding three shillings per diem, and to be paid to the prosecutor or prosecutors for his, her, or their own use and benefit, and the residue of such penalty to be paid to such justice, and within seven days after his receipt thereof to be transferred by him to some one of the overseers of the poor, or to some other officer (as the convicting justice or justices may direct) of the parish, township, or place in which the offence shall have been committed, to be by such overseer or officer paid over to the use of the general rate of the county, riding, or division, in which such parish, township, or place shall be situate, whether the same shall or shall not contribute to such general rate; and no inhabitant of such county, riding, or division shall be deemed an incompetent witness in any proceeding under this Act by reason of the application of such penalty or forfeiture to the use of the said general rate as aforesaid; and in case the whole amount of the penalty, and of the cost and expenses aforesaid, be not forthwith paid after conviction of the offender or offenders, such justice shall and may, by warrant under his hand and seal, direct the same to be raised and levied by distress and sale of the goods and chattels of the offender or offenders, and in default and insufficiency of such distress commit the offender or offenders to the house of correction, with or without hard labour, on a first offence for the space of seven days, on a second offence for the space of fourteen days, and on a third or any subsequent offence for the space of one month, with or without hard labour, unless the whole of the penalty, costs, and expenses be sooner paid and discharged: Provided nevertheless, that it shall be lawful for every baker residing beyond the limits aforesaid to deliver to his or her customers on the Lord's Day any bakings until half an hour past one of the clock in the afternoon of that day, without incurring or being liable to any of the penalties in this Act contained: Provided always, that the provisions of this Act, so far as they authorize the baking and preparing bread on Sunday, shall not extend to Scotland.

15. No Miller, Mealman, or Baker to act as a Justice of the Peace under this Act—Penalty, L.100.—Provided always, that no person who shall follow or be concerned in the business of a miller, mealman, or baker, shall be capable of acting or shall be allowed to act as a justice of the peace under this Act, or in putting in execution any of the powers in or by this Act granted; and if any miller, mealman, or baker shall presume so to do, he or they so offending in the premises shall for every such offence forfeit and pay the sum of one hundred pounds to any person or persons who will inform or sue for the same, to be recovered, together with full costs of suit, in any of his Majesty's courts of record at Westminster. . . . . .

S. 15 *in part rep.* 51 & 52 *Vict. c.* 57 (*S.L.R.*).

16. Penalty for opposing the execution of this Act.—In case any person or persons shall resist or make forcible opposition against any person or persons employed in the due execution of this Act, every such person offending therein shall for every such offence forfeit any sum not exceeding ten pounds, at the discretion of the magistrate or magistrates, justice or justices of the peace, before whom he or she shall be convicted of such offence.

17. Recovery and Application of Penalties and Forfeitures.—All penalties, forfeitures, and fines by this Act inflicted or authorized to be imposed (the manner of levying and recovering and applying whereof is not herein otherwise directed) shall, upon proof and conviction of the offences respectively before any magistrate or justice of the peace for the city, county, or place where the offence shall have been committed (as the case may require), either by the confession of the party offending, or by the oath, or in case of a Quaker on affirmation, of any credible witness or witnesses, which oath or affirmation every such magistrate or justice is in every such case hereby fully authorized to administer, be levied, together with the costs attending the information and conviction, by distress and sale of the goods and chattels of the party or parties offending, by warrant under the hand and seal of such magistrate or justice . . . ; but if upon return of such warrant it shall appear that no sufficient distress can be had thereupon, then it shall be lawful for any such magistrate or justice of the peace as aforesaid, and he is hereby authorized and required, by warrant or warrants under his hand and seal, to cause such offender or offenders to be committed to the common gaol or house of correction of the city, county, or place where the offender shall be or reside, there to remain without bail or mainprize for any time not exceeding one calendar month, with or without hard labour, (save and except as herein otherwise directed,) unless such penalties, forfeitures, and fines, and all reasonable charges attending the same, shall be sooner paid and satisfied; and the monies arising by such penalties, forfeitures, and fines respectively when paid or levied, if not otherwise directed to be applied by this Act, shall be from time to time paid, one moiety thereof to the informer or person suing for and recovering the same, ...

S. 17 *in part rep.* 54 & 55 *Vict. c.* 67 (*S.L.R.*).

[*Ss.* **18–23** *rep.* 54 & 55 *Vict. c.* 67 (*S.L.R.*).]

24. Proceedings not to be quashed for want of Form, &c.—No order, judgment, or conviction made touching or concerning any of the matters in this Act contained, or of any proceedings to be had touching the conviction of any offender or offenders against this Act, shall be quashed for want of form, or be removed or removable by certiorari, or any other writ or process whatsoever, into any of his Majesty's courts of record at Westminster; . . . . . .

S. 24 *in part rep.* 54 & 55 *Vict. c.* 67 (*S.L.R.*).

25. Appeal to Quarter Sessions.—Provided always, that if any person or persons convicted of any offence punishable by this Act shall think him, her, or themselves aggrieved by the judgment of the magistrate or magistrates, justice or justices, before whom he, she, or they shall have been convicted, it shall be lawful for such person or persons from time to time to appeal to the justices at the next general or general quarter sessions of the peace which shall be held for the city, county, division, liberty, town, or place where such judgment shall have been given, and that the execution of such judgment shall in such case be suspended, ...

S. 25 *in part rep.* 54 & 55 *Vict. c.* 67 (*S.L.R.*).

[*S.* **26** *rep.* 54 & 55 *Vict. c.* 67 (*S.L.R.*).]

27. Recovery and Application of Penalties in Scotland.—In Scotland all penalties incurred under the provisions of this Act . . . after deducting all charges and such remuneration to the person prosecuting as the said judges shall think fit, shall be paid to the poor of the place where such penalties shall be awarded . . . . . .

S. 27 *in part rep.* 54 & 55 *Vict. c.* 67 (*S.L.R.*).

[*S.* **28** *rep.* 54 & 55 *Vict. c.* 67 (*S.L.R.*). *S.* **29** *rep.* 57 & 58 *Vict. c.* 26 (*S.L.R.*). *S.* **30** *rep.* 56 & 57 *Vict. c.* 61.]

31. Limitation of Prosecutions.—Provided also, that no person shall be convicted of any offence under this Act, unless the complaint is made within forty-eight hours after the offence shall have been committed, or within such reasonable time as to the justice or justices shall seem fit, except in cases of perjury; and that no person who shall be prosecuted to conviction for any offence done or committed against this Act shall be liable to be prosecuted for the same offence under any other law.

32. Application of Penalties.—All penalties and forfeitures by this Act inflicted, and the application of which is not herein-before directed, shall, when recovered or paid, go and be disposed of in manner following; (that is to say,) one moiety thereof, where any offender or offenders shall be convicted, either by his, her, or their confession, or by the oath or affirmation of one or more credible witness or witnesses, shall go and be paid to the person or persons who shall inform against and prosecute to conviction any such offender or offenders; and the other moiety thereof (or, in case there be no such person informing, then the whole thereof) shall go and be paid to some one of the overseers of the poor, or to some other officer, (as the convicting justice or justices may direct,) of the parish, township, or place in which the offence shall have been committed, to be by such overseer or officer paid over to the use of the general rate of the county, riding, or division in which such parish, township, or place shall be situate, whether the same shall or shall not contribute to such general rate; and no inhabitant of such county, riding, or division shall be deemed an incompetent witness in any proceeding under this Act by reason of the application of such penalty or forfeiture to the use of the said general rate as aforesaid.

33. Saving of certain Rights.—Provided always, that this Act or any thing herein contained shall not extend or be construed to extend in any way to affect, lessen, or infringe upon any right or custom of the universities of Oxford or Cambridge or either of them, or of any lord or lords of any leets, or the rights of any clerk or clerks of the market in any place, which may be exercised and enjoyed by them or any of them by virtue of any charter, bye laws, prescriptions, usages, customs, privileges, grants, or Acts of Parliament, except so far as relates to the assize of bread and the regulations of the price and weight thereof; but that all such rights and privileges shall be held, exercised, and enjoyed by the parties respectively entitled thereto, as fully and amply to all intents and purposes as the same were held, exercised, and enjoyed before the passing of this Act, any thing herein contained to the contrary notwithstanding.

[*S.* **34** *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).]

35. Extent of Act.—Nothing in this Act contained shall extend to Ireland

[*S.* **36** *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).]

CHAPTER XLII.

The Entail Powers Act, 1836 (*Short Titles Act*, 1896).

An Act to grant certain Powers to Heirs of Entail in Scotland, and to authorize the Sale of Entailed Lands for the Payment of certain Debts affecting the same. [28th July 1836.]

Whereas by an Act of the Parliament of Scotland made in the year one thousand six hundred and eighty-five, intituled "Act concerning tailzies," it is statuted and declared that it shall be lawful to his Majesty's subjects to tailzie or entail their lands and estates, and to substitute heirs in their tailzies or entails, with such provisions and conditions as they shall think fit, and to affect the said entails with irritant and resolutive clauses, whereby it shall not be lawful to the heirs of entail to sell, analzie, or dispose of the said lands or any part thereof, to contract debt, or do any other deed whereby the same might be apprized, adjudged, or evicted from the other substitutes in the entail, or the succession frustrate or interrupted, declaring all such deeds to be in themselves null and void; and provision is made by the said Act for the recording such entails in the manner therein set forth: And whereas it is expedient that certain powers should be conferred upon heirs of entail in relation to granting tacks and making excambions, and to selling portions of entailed estates for payment of the entailer's debts:

1. Heirs of Entail in possession may grant Tacks of any part of Entailed Estates under the Restrictions herein contained.—Notwithstanding any prohibitory, irritant, and resolutive clauses contained in any entails already made and established, or which may hereafter be made and established, pursuant to the directions of the said Act passed in the Parliament of Scotland in the year one thousand six hundred and eighty-

five, it shall be lawful for the respective heirs of entail in possession to grant tacks of any parts of the lands, estates, or heritages therein contained, for the fair rent of such lands or heritages at the period of letting, either by public auction or private bargain, and notwithstanding any prohibition against diminution of the rental, for any period not exceeding twenty-one years, and to grant tacks of any mines and minerals contained in such lands and estates for any period not exceeding thirty-one years: Provided always, that nothing herein contained shall authorize any heir of entail in possession of any entailed lands, estates, or heritages, to take any grassum or valuable consideration, other than the tack duty or rent, for granting any tack, or to grant any tack of the home farm, nor of the mansion house and offices, or of the garden, lawn, park, or policy attached thereto, for any period beyond his own life; and in case any such grassum or consideration shall be taken, or in case any tack hereby prohibited shall be granted, such tack shall be null and void.

2. THIS ACT NOT TO RESTRAIN ANY MORE EXTENSIVE POWERS CONTAINED IN ANY ENTAIL.—Provided also, that nothing herein contained shall prevent or be construed to prevent any heir of entail in possession from exercising any power of granting tacks, which may be contained in the entail under which he possesses, more extensive than the power of granting tacks hereby conferred.

3. HEIRS IN POSSESSION MAY MAKE EXCAMBION OF ENTAILED ESTATES IN THE MODE HEREIN PRESCRIBED.—[1] Notwithstanding any prohibitory, irritant, and resolutive clauses contained in any entail already made and established, or which may hereafter be made and established, pursuant to the directions of the said Act passed in the Parliament of Scotland in the year one thousand six hundred and eighty-five, it shall be lawful for the respective heirs of entail in possession of any entailed lands, estates, or heritages, having made up a feudal title thereto, to make excambion without the consent of any other heir, of any portion of the entailed lands, estates, or heritages, for an equivalent in lands, estates, or heritages lying contiguous to the same or to some other part of the said entailed estate, or being convenient to be holden with the same, and whether the same shall belong to himself in fee simple or to any other person, and that although the heritages to be given and taken in exchange may consist of different descriptions of heritable property: Provided always, that notice of the intention to make such excambion shall, three months previous to the application to the Court of Session to that effect, as herein-after required, be given to the five heirs of entail, or to the whole heirs of entail, if their number be less than five, of the said entailed lands, estates, or heritages, next in the order of succession to the heir so applying; and if any of the said five heirs of entail shall be under age, or under any mental or other legal disability, then to the legal guardians, curators, or administrators of such heirs; and if three or more of the said five heirs shall be under age, or under any mental or other legal disability, then to their respective guardians, curators, or administrators, and also to the two heirs next in the order of succession after such five heirs, who shall be of lawful age and not under any mental or other legal disability; and if any of the said heirs, to whom notice is thus directed to be given, shall be forth of the United Kingdom, then to the known agent or factor of such absent heir or heirs; and for ascertaining and adjusting the value of the lands, estates, or heritages proposed to be exchanged, an application shall be made for that purpose by the heir of entail in possession and feudally vested in such lands, estates or heritages, after such notice as is herein directed to be given, by summary petition, setting forth the objects of the said excambion, and the advantages expected to be derived therefrom, to one or other of the divisions of the Court of Session, praying for such excambion; and the said court shall, after proof made to them of notice to the heirs of entail as aforesaid, take into consideration the expediency of such excambion, and the other circumstances of or affecting the lands, estates, or heritages proposed to be excambed, and the interests of the succeeding heirs of entail therein, and, after such notice as is herein-after directed to be given, and hearing any party having a title and interest to be heard, if any such shall appear, shall appoint two or more skilful persons to inspect and adjust the value and settle the marches of the said lands, estates, or heritages proposed to be excambed; and upon receiving the report upon oath of such persons, and being satisfied of the respective values of such lands, estates, or heritages, and of the expediency of such excambion, the said court shall thereupon give judgment authorizing the said excambion; and thereupon the contract of excambion shall be executed at the sight and with the approbation of the said court, and recorded in the

sheriff court books of each of the shires in which the lands or heritages to be excambed are situated, and also within three months in the register of tailzies: Provided also, that after hearing any party having a title or interest, and appearing as aforesaid, it shall be competent to the said court to decern the expenses to be incurred by such party in such appearance to be borne either by such party or by the heir of entail applying for the excambion, as to the said court shall seem just.

[1] *See also* 11 & 12 *Vict. c.* 36, *s.* 37.

4. No Excambion of Mansion Houses, &c., nor of more than one fourth in value of Entailed Estates in all.—Provided further, that it shall not be lawful to excamb the principal mansion house or offices, or the garden, park, lawn, home farm, or policy of any entailed estate, nor more than one fourth in value of such entailed lands, estate, or heritages in all; and declaring that after excambions have been made under the authority of this Act to the extent in all of one fourth part in value of the whole entailed lands, estates, or heritages, it shall not be in the power of any heir of entail to make any further excambions of any part of the said lands, estate, or heritages.

5. Tenure of excambed Lands—Excess of value in any Excambion to the amount of L.200 to be paid to the Proprietors—In case of any larger consideration passing, the Excambion shall be void.—All contracts of excambion executed and recorded in terms of this Act shall be effectual to all intents and purposes; and the lands and heritages given or received in excambion shall be held to be a part of the entailed estate or of the entailed estates respectively, and shall be subject to all the prohibitory, irritant, and resolutive clauses of the entail or entails, in the same manner as if it or they had been originally a part of such estate or estates respectively; and the lands and heritages given from the entailed estate or estates shall from thenceforth be held as out of the entail or entails under which it was previously held, and be liberated from all the prohibitory, irritant, and resolutive clauses thereof: Provided always, that no debt contracted by any heir of entail during the period between the execution of any such contract of excambion and the recording of such contract in the register of tailzies as aforesaid shall affect or be capable of affecting the lands contained in such contract, and thereby added to the entailed estate: And provided further, that if in any such excambion as aforesaid there shall be any excess of value on either side, not exceeding two hundred pounds, such excess shall go and be paid to the proprietor, whether heir of entail in possession or proprietor in fee simple, to whom the lands of smaller value shall be awarded; and that if any party to any such excambion shall give or shall receive any consideration or value of any kind whatever, other than the lands to be exchanged, or such excess as aforesaid not exceeding two hundred pounds, such excambion shall be null and void.

6. Proviso as to Excambion of Entailed Estates under more than one Deed of Entail—Saving as to 10 Geo. 3, c. 51.—Provided always, that where any such heir in possession shall apply as aforesaid for the excambion of any part or parts of any entailed estate or estates under more than one deed of entail, descendible to the same series of heirs, such deeds of entail shall in reference to such application be held and construed to be one deed of entail, and the estates settled by such entail to be one entailed estate: Provided also, that an Act passed in the tenth year of the reign of his Majesty King George the Third, intituled "An Act to encourage the improvement of "lands, tenements, and hereditaments in that part of Great Britain called Scotland "held under settlements of strict entail," shall remain in full force and effect, excepting in so far as the same is altered or repealed by any of the provisions of this Act.

7. Heir of Entail may apply to Court of Session that part of Entailed Estate may be sold for payment of Entailer's Debts affecting the Estate.—And for effecting the sale of portions of entailed estates for payment of the entailer's debts, be it enacted, that from and after the passing of this Act it shall and may be lawful for the heir of entail in the possession of any entailed estate liable to be adjudged or evicted for the debts or obligations of the maker of the entail, and for the tutors or curators or legal guardians of any such heir, if under twenty-one years of age or under any mental or other legal disability, to apply by summary petition to the Court of Session in either of the divisions of the said court, setting forth the entail, and the debts or obligations affecting or which may be made to affect the lands or heritages contained in the said entail as aforesaid, and praying the said court that so much of the said lands or heritages

may be sold as will produce a sum adequate to discharge the debts so affecting the said estate.

8. Court of Session to inquire into the particulars, and direct what portion of Estate shall be sold.—It shall and may be lawful for the judges of the said court, sitting in either of the divisions thereof, and they are hereby authorized and required, upon such petition presented to them as aforesaid, to direct due notice, according to the practice of the said court, to be given of such petition to all concerned, to hear all parties that shall appear for their interest, to inquire into and take an account of the debts, obligations, and other burdens due by or binding upon the entailer of such estate, which affect or may be made to affect such estate as aforesaid, and to fix and ascertain the amount of such debts, obligations, and burdens, and interest, if any, due thereupon, by interlocutors or judgments, and thereupon to inquire into and ascertain, by the investigation and evidence or report of such surveyors or other skilful persons as the said court shall think fit to nominate and appoint for that purpose, what portions of such entailed estate sufficient to produce a price adequate to the payment of all such debts, obligations, and burdens affecting or capable of being made to affect the said entailed estate as aforesaid, may be sold with the least detriment or injury to the remainder of such estate, and to take all necessary proof thereof, and of the value at which such portions of such estate ought either in whole or in lots to be exposed to sale, and thereupon to order and decern that such portions of such estate shall be sold by public roup or auction.

9. And cause Notice of Sale to be given, and adjust the Conditions thereof.—The said judges shall cause notice of the intended sale or auction of such portions of such estates to be inserted in one of the newspapers published in the county or counties in which the lands or heritages to be sold lie, and also in three of the newspapers published in Edinburgh, three times, at least three weeks previous to the day of sale, and shall otherwise advertise and notify such sale as to the said judges shall seem necessary and proper; and the articles and conditions of roup or sale of such portions of such estates shall be adjusted at the sight and with the approbation of the said judges, and the lands or heritages be exposed to sale in such manner as the said judges shall direct; and the said judges may authorize and direct such sales respectively to be adjourned from time to time, and to be again from time to time advertised and notified as hereinbefore directed.

10. Court of Session to adjudge the Lands sold to the Purchaser, and direct the disposition of the Purchase Money.—Upon the sale of such portions of such estates as aforesaid the said judges shall adjudge and decern the same, freed from all the burdens, conditions, restrictions, and provisions, clauses irritant and resolutive, and other clauses of such entail, to belong to and be the property of the purchaser or respective purchasers thereof, when and as soon as such purchaser or purchasers shall have completed such purchase or purchases by payment or consignation of the purchase money or price or prices, at or for which he, she, or they shall have purchased the same, to or with the treasurer, cashier, or manager or other proper officer of the Bank of Scotland, the Royal Bank of Scotland, Bank of the British Linen Company of Scotland, Commercial Bank of Scotland, or National Bank of Scotland respectively, to whom the said judges shall order such payment or consignation to be made, to be placed to an account to be raised in the books of such bank in the name or names of such person or persons as the said judges shall direct; and which monies shall, when so paid in, produce the highest interest that can be obtained for the same, which interest shall by such person or persons be annually accumulated and added to the principal sum, to carry interest together, until applied, by a warrant or warrants of the said judges in either division of the said court as aforesaid, for the purposes of this Act; and the said judges shall further pronounce such interlocutor or interlocutors, and hold such other proceedings in the said matter, as the judges of the Court of Session are in use to pronounce and hold in judicial sales, or as shall appear to the said judges necessary for fully carrying the purposes of this Act into execution.

11. Purchasers, upon payment of the Money, to have a good right to the Lands, freed from the Entail, &c.—Heir of Entail, &c. to execute all necessary Conveyances.—The purchaser or purchasers in pursuance of this Act, and their heirs and assignees, shall, by the interlocutors or decrees of sale to be pronounced by the said judges, and upon full payment of the price or prices for which they shall respectively

purchase to such person or persons or in such way as they shall by the articles and conditions of sale be taken bound to pay the same, have a good and undoubted right to the lands and heritages so to be purchased by them, freed and discharged of all the conditions, provisions, limitations, and restrictions of such entail, and of all the debts, obligations, and burdens by which the said lands and heritages were affected, and from every other incumbrance, defect of title, or ground of eviction whatsoever, in as full and ample a manner, sort, and form as any purchaser of lands at a judicial sale before the Court of Session may, can, or ought to have by the law and practice of Scotland; and the heir of entail of the estate for the time being, or his or her tutors or curators or other legal guardians as aforesaid, shall and is or are hereby required to execute and deliver, under the authority of the said judges of the Court of Session in either division thereof as aforesaid, all such dispositions and conveyances of such portions of such estates as shall be so sold, containing procuratories of resignation, precepts of sasine, and other usual and necessary clauses, as shall by the said judges be deemed necessary and proper, in favour of such purchaser or purchasers, his, her, or their heirs and assignees, without incurring any irritancy or forfeiture, any thing in such deed of entail to the contrary notwithstanding.

12. Lands not sold to continue subject to the Entail.—Provided always, that such parts of such entailed estate as shall not be sold under the authority of this Act in the manner herein directed, shall remain and continue settled and entailed to and upon the same series of heirs, under the same prohibitory, irritant, and resolutive clauses, provisions, and conditions, as are contained in such deed of entail, but subject to the powers and provisions herein-before given by this Act.

13. Court of Session to direct Purchase Money to be applied to payment of Debts, &c.—After such sale or sales are accomplished, and the purchase money paid or consigned as aforesaid, the said judges of the Court of Session in either division thereof shall issue their warrants or decrees for payment, out of the money so paid or consigned, of the expenses of the proceedings attending such petition, inquiry, and sale, and also of the amount of such debts, obligations, or burdens affecting or which might be made to affect such entailed estate as aforesaid, of which such portions have been sold as aforesaid; and every creditor in such debt, obligation, or burden, shall upon receiving payment be obliged to execute a complete discharge of his or her debt, right, or claim; and the several discharges shall be registered in the books of council and session.

14. Payment of the Costs of Parties interested and appearing.—Provided always, that if any party interested in such entailed estate shall have appeared and been heard before the said court, it shall be competent for the said court to decern the expenses incurred by such party in such appearance and hearing to be borne, either by such party, or by the heir applying for such sale, either out of the price of the lands to be so sold, or otherwise as to the said court shall seem just.

15. Any surplus exceeding L.200 to be laid out in purchase of other Land, to be limited to same uses, &c. as Lands sold.—Provided always, that if any surplus exceeding two hundred pounds shall remain of the price of the lands and heritages so sold, after defraying such expenses, debts, obligations, or burdens directed to be paid as aforesaid, the said judges of the said court in either of the divisions thereof shall and they are hereby empowered and required to direct and order that such surplus shall be laid out and employed in the purchase of other lands or heritages, which shall be limited and settled to the same uses and purposes, and under the like prohibitory, irritant, and resolutive clauses, as, by the deed of entail in relation to which such proceedings have been held, the lands and heritages therein described stand limited and settled.

16. And the Deed of Entail thereof to be framed at the sight of the Court of Session, &c.—When such surplus shall be laid out and employed in the purchase of other lands or heritages to be settled as aforesaid, the disposition, deed, or settlement of entail thereof to or in favour of the heir of entail in possession for the time being, and the other heirs of entail entitled to succeed to the entailed estate to which the lands or heritages so purchased are to be added, shall be framed at the sight and with the approbation of the judges of the said court, and shall be so framed as to bind the heir in possession or persons in whose favour the same is executed as well as the succeeding heirs of entail.

17. And recorded in Register of Tailzies, &c.—After such disposition, conveyance, or entail shall be so made and executed, the same shall be directed by the said judges

to be forthwith recorded in due form in the register of tailzies, for the benefit of all the persons interested therein; and infeftment shall be taken by virtue of the procuratory of resignation or the precept of sasine therein contained, and shall be registered agreeably to the forms and practice of the law of Scotland, upon all which the said court shall interpose its authority by declaring that the directions by this Act given have been complied with according to the true intent and meaning thereof.

18. Application of surplus Monies till invested in Land.—Until such surplus as aforesaid shall be applied in the purchase of other lands or heritages as aforesaid, the said judges shall order and direct that the same shall remain in one or other of the aforesaid banks respectively, subject to the direction of the said judges of that division of the said court to which application shall have been originally made, in the name of such person or persons as they shall have appointed, who shall receive the highest interest which can be got for the same; and the interest arising from the money so paid in shall be laid out in the name or names of such persons as aforesaid, and shall annually accumulate and be added to the principal sum, so that they may carry interest together, until a proper purchase in lands or heritages shall be found, to be limited and settled in the manner herein-before directed, and until the same shall be ordered to be paid by the treasurer, cashier, or manager or other proper officer of the Bank of Scotland, the Royal Bank of Scotland, Bank of the British Linen Company of Scotland, Commercial Bank of Scotland, or National Bank of Scotland respectively, for completing the said purchase in such manner as the said court shall think just and direct; and if the money arising by the principal and accumulated interest of such sum or sums shall exceed the amount of the original purchase money, then and in that case only the surplus which shall remain, after discharging the expense of the applications to the court, shall be paid to the person or persons respectively who would have been entitled to receive the rents and profits of the entailed lands or heritages.

19. Surplus, if under L.200, to be paid to Heir in possession.—If such surplus as aforesaid shall be under two hundred pounds sterling, the same shall be paid, by order of the said court, to the heir in possession of such entailed estate for the time being.

20. Heirs of Entail in this Act shall include Trustees, &c.—Any matter or thing permitted or prohibited to be done by any heir of entail by virtue of this Act is and shall be permitted or prohibited to be done by any trustees or trustee holding lands in trust under obligations to entail the same; and where the words "heir" or "heirs of entail" are used in any part of this Act, such word or words shall be held and construed to include the institute equally as any substitute heir of entail.

21. How Notices to be given of Applications under this Act to Court of Session, &c.—Provided always, that notice of all applications, either to the Court of Session or any lord ordinary of the said court, or to any sheriff of any county, under the provisions of this Act, by any heir of entail, shall be inserted once at least in the London and Edinburgh gazettes, and in two or more newspapers published in Edinburgh and usually circulated in the part of Scotland in which the entailed lands and estates to which such application relates lie, and also in any one newspaper published (if any so be) in such part of Scotland at least three months previous to the making such application; . . .

S. 21 *in part rep.* 37 & 38 *Vict. c.* 35 (*S.L.R.*).

CHAPTER XLIII.

The Judicial Ratifications (Scotland) Act, 1836 (*Short Titles Act*, 1896).

An Act to provide for the taking of Judicial Ratifications of Scottish Deeds on Oath as heretofore. [28th July 1836.]

[*Preamble recites* 5 & 6 *Will.* 4, *c.* 62, "*Statutory Declarations Act*, 1835."]

1. Nothing in recited Act to prevent the taking of Oaths by Married Women in Judicial Ratifications, as heretofore.—Nothing in the said recited Act contained shall prevent or be construed to prevent the taking of oaths in judicial ratifications by

married women as the same might by the law and practice of Scotland have heretofore been taken, nor shall any thing in the said recited Act contained invalidate or be construed to invalidate any such ratification on oath taken according to such law and practice since the commencement of the said recited Act; and every such ratification taken under a declaration since the passing of the said recited Act shall be of the same force and effect as if such ratification had been taken on oath.

CHAPTER LVI.

THE CESSIO (SCOTLAND) ACT, 1836 (*Short Titles Act*, 1896).

AN ACT for regulating the Process of Cessio bonorum in the Court of Session, and for extending the Jurisdiction of Sheriffs in Scotland to such Cases.

[13th August 1836.]

[*Preamble.*]

1. SHERIFFS TO HAVE JURISDICTION AS TO CESSIO BONORUM, AND SHERIFF CLERKS AND OFFICERS TO ACT THEREIN.—Every sheriff within Scotland shall possess jurisdiction in processes of cessio bonorum brought before him in manner herein-after provided, as fully as in any other action presently by law competent before him; and the sheriff clerk and messengers at arms and all sheriff officers in the several sheriffdoms in Scotland shall have power to act in their respective offices in relation to such processes.

[*S.* **2** (*authorising debtor against whom a warrant for imprisonment is issued or who is in prison for debt to apply for decree of cessio bonorum*) *rep.* 54 *&* 55 *Vict. c.* 67 (*S.L.R.*).]

3. DEBTOR MAY PRESENT TO THE SHERIFF A PETITION PRAYING FOR SUCH DECREE.—Such debtor may present to the sheriff of the county in which he has his ordinary domicile a petition, . . . for decree of cessio bonorum; in which petition he shall insert a list of all his creditors, specifying their names and designations and places of residence, so far as known to him; . . . . . .

S. 3 *in part rep.* 54 *&* 55 *Vict. c.* 67 (*S.L.R.*).

4. PROCEEDINGS UPON SUCH PETITION.—On such petition being presented the sheriff shall issue a warrant appointing the debtor to publish a notice in the Edinburgh Gazette, intimating that such petition has been presented, and requiring all his creditors to appear in court on a certain day, being not less than thirty days from the date of the gazette notice, and within five days after the date of such notice to send letters to all the creditors specified in the petition, containing a copy of the said notice (paying the postage thereof), or, in his option, to cite them in terms of law and which the debtor shall do accordingly; and the sheriff shall farther ordain him to appear on the day so appointed for the compearance of the creditors in presence of the sheriff or his substitute for public examination; and the debtor shall, on or before the sixth lawful day prior to the day so appointed, lodge, to be patent to all concerned, a state of his affairs subscribed by himself, and all his books, papers, and documents relating to his affairs, in the hands of the sheriff clerk, together with a copy of the said gazette, and, if the letters have been sent through the post office, a certificate subscribed by his agent, or by a messenger or sheriff officer and a witness, stating the date and the place where the letters were put into the post office, that the postage was paid, and that they were severally addressed as specified in the petition, or an execution, subscribed by a messenger or sheriff officer and one witness, of citation of the creditors to whom such letters have not been so sent.

5. DEBTOR TO UNDERGO EXAMINATION BEFORE SHERIFF.—On the said day appointed for the compearance of the creditors the debtor shall appear in public court in presence of the sheriff for examination as to his affairs; and the sheriff shall have power to put him on oath or affirmation (as the case may be), and the debtor shall be bound to answer all pertinent questions put to him by the sheriff, or by any creditor with the approbation of the sheriff, under certification that if, without lawful cause, he refuse to be put on oath or affirmation, or to answer any such question, or to subscribe his examination,

decree of cessio shall be refused in hoc statu; and it shall be competent to the sheriff to adjourn the examination for such time as to him shall appear fit and reasonable.

6. Sheriff after Examination, shall hear Parties, &c. and grant or refuse the Decree, &c.—The sheriff shall, on such examination being taken, allow a proof to the parties if it shall appear necessary, and hear parties vivâ voce, and shall make a note of any objections that may be stated on the part of the creditors, and either grant decree or refuse the same in hoc statu, or grant it, subject to a declaration that it shall not be extractable or available as a protection to the debtor for such time as shall appear proper, or make such other orders as may be necessary for the due administration of justice; provided that where the sheriff shall grant decree under such limitation, or refuse decree in hoc statu, he shall state the grounds of his decision, and the most summary despatch consistent with the forms of court shall be given, and the sheriff's note of the objections shall form part of the process.

[*Ss.* **7–14** *rep.* 51 *&* 52 *Vict. c.* 57 (*S.L.R.*). *S.* **15** *rep.* 54 *&* 55 *Vict. c.* 67 (*S.L.R.*).]

16. Decree to operate as an Assignation in favour of Creditors; or Disposition omnium bonorum to be granted.—The decree pronounced . . . by the sheriff, granting the benefit of cessio bonorum, shall operate as an assignation of the debtor's moveables in favour of any trustee mentioned in the decree for behoof of the creditors: Provided always, that it shall be optional to the creditors to require the debtor to execute a disposition omnium bonorum, as has been hitherto granted in processes of cessio before the Court of Session, in favour of the trustee, the expense of which deed shall be paid out of the readiest of the funds thereby conveyed.

S. 16 *in part rep.* 54 *&* 55 *Vict. c.* 67 (*S.L.R.*).

17. Provision where Decree refused in hoc statu.—If the decree of cessio be refused in hoc statu . . . the debtor may at any time thereafter, without the necessity of raising any new summons or presenting any new petition, apply to have decree of cessio pronounced in his favour; and if the decree has, on review by the Court of Session, been refused in hoc statu, the debtor may either apply to that court for decree, or present a new petition to the sheriff, in which latter case proceedings shall take place as if no former petition had been presented; and the debtor shall in all cases of a renewed application give notice thereof in such manner as shall be appointed either by the Court of Session or sheriff respectively.

S. 17 *in part rep.* 54 *&* 55 *Vict. c.* 67 (*S.L.R.*).

18. Dyvours habit abolished—Insolvency to be proved if denied, and Oath to be taken.—It shall not be lawful to ordain the debtor to wear the dyvours habit; and he shall be required to prove his insolvency (if the same shall be denied) as by law presently established; and he shall be bound to make oath or affirmation . . . in the same terms as the oath hitherto administered in processes of cessio in the Court of Session; . . . . . .

S. 18 *in part rep.* 54 *&* 55 *Vict. c.* 67 (*S.L.R.*).

[*Ss.* **19, 20** *rep.* 54 *&* 55 *Vict. c.* 67 (*S.L.R.*). *Ss.* **21, 22** *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).]

CHAPTER LIX.

The Prints and Engravings Copyright (Ireland) Act, 1836 (*Short Titles Act*, 1896).

An Act to extend the Protection of Copyright in Prints and Engravings to Ireland. [13th August 1836.]

[*Preamble recites* 17 *Geo.* 3, *c.* 57, "*Prints Copyright Act*, 1777."]

1. Provisions of recited Act, &c. extended to Ireland.—All the provisions contained in the said recited Act of the seventeenth year of the reign of his late Majesty King George the Third, and of all the other Acts therein recited, shall be and the same are hereby extended to the United Kingdom of Great Britain and Ireland.

2. Penalty on engraving or publishing any Print without consent of Proprietor in any part of the United Kingdom.—If any engraver, etcher, printseller, or other person shall, within the time limited by the aforesaid recited Acts, engrave, etch, or publish, or cause to be engraved, etched, or published, any engraving [1] or print of any description whatever, either in whole or in part, which may have been or which shall hereafter be published in any part of Great Britain or Ireland, without the express consent of the proprietor or proprietors thereof first had and obtained in writing, signed by him, her, or them respectively, with his, her, or their own hand or hands, in the presence of and attested by two or more credible witnesses, then every such proprietor shall and may, by and in a separate action upon the case, to be brought against the person so offending in any court of law in Great Britain or Ireland, recover such damages as a jury on the trial of such action or on the execution of a writ of inquiry thereon shall give or assess, together with double costs of suit.

[1] *See* 15 & 16 *Vict. c.* 12, *s.* 14.

CHAPTER LXVI.

The Lotteries Act, 1836 (*Short Titles Act*, 1896).

An Act to prevent the advertising of Foreign and other illegal Lotteries. [13th August 1836.]

[*Preamble.*]

1. Penalty for advertising Foreign or Illegal Lotteries, L.50.—If any person shall print or publish, or cause to be printed or published, any advertisement or other notice of or relating to the drawing or intended drawing of any foreign lottery, or of any lottery or lotteries, not authorized by some Act or Acts of Parliament; or if any person shall print or publish, or cause to be printed or published, any advertisement or other notice of or for the sale of any ticket or tickets, chance or chances, or of any share or shares of any ticket or tickets, chance or chances, of or in any such lottery or lotteries as aforesaid, or any advertisement or notice concerning or in any manner relating to any such lottery or lotteries, or any ticket, chance, or share, tickets, chances, or shares thereof or therein; every person so offending shall for every such offence forfeit the sum of fifty pounds, to be recovered, with full costs of suit, by action of debt, bill, plaint, or information, in any of his Majesty's courts of record in Westminster or Dublin respectively, or in the Court of Session in Scotland; . . . . . .

S. 1 *in part rep.* 37 & 38 *Vict. c.* 35 (*S.L.R.*).

CHAPTER LXIX.

The Plate (Scotland) Act, 1836 (*Short Titles Act*, 1896).

An Act to fix the Standard Qualities of Gold and Silver Plate in Scotland, and to provide for the assaying and marking thereof. [13th August 1836.]

[*Preamble.*]

1. Goldsmiths, &c. not to work or sell, &c. Gold or Silver Plate inferior to certain Standard Qualities.—No goldsmith, silversmith, or other person in Scotland shall work or make, or cause or procure to be wrought or made, any gold vessel, plate or manufacture or ware of gold whatsoever, less in fineness than eighteen carats of fine gold in every pound weight troy; nor work or make, or cause or procure to be wrought or made, any silver vessel, plate or manufacture or ware whatsoever, less in fineness than eleven ounces and two pennyweights of fine silver in every pound weight troy; nor sell, exchange, or keep or expose for sale, or export or attempt to export out of Scotland, any gold vessel, plate or manufacture or ware of gold whatsoever, wrought or made after the first day of October one thousand eight hundred and thirty-six, less in fineness than

eighteen carats of fine gold in every pound weight troy; nor sell, exchange, or keep or expose for sale, or export or attempt to export out of Scotland, any silver vessel, plate or manufacture or ware of silver whatsoever, wrought or made after the said first day of October one thousand eight hundred and thirty-six, less in fineness than eleven ounces and two pennyweights of fine silver in every pound weight troy; and every goldsmith, silversmith, or other person, who shall, after the said first day of October one thousand eight hundred and thirty-six, work or make, or cause or procure to be wrought or made, or sell, exchange, keep, or expose for sale, or export or attempt to export out of Scotland, any gold or silver vessel, plate or manufacture or ware of gold or silver, less in fineness respectively than is herein-before directed, shall, for each piece of gold or silver plate so sold, exchanged, or kept or exposed for sale, or exported or attempted to be exported as aforesaid, forfeit and pay a sum not exceeding one hundred pounds, to be levied, recovered, and applied in manner herein-after mentioned.

2. Goldsmiths, &c. to send their Names, Descriptions, and Marks to the Goldsmiths Incorporation of Edinburgh or the Glasgow Goldsmiths Company.—On or before the first day of October one thousand eight hundred and thirty-six every goldsmith, silversmith, or plate-worker, or other person carrying on any of the said trades in Scotland, and also every person who at any time after the said first day of October one thousand eight hundred and thirty-six shall follow the trade of a goldsmith, silversmith, or plate-worker, before he shall exercise the same, shall send or deliver, either to the wardens of the incorporation of goldsmiths of the city of Edinburgh, or to the wardens of the Glasgow goldsmiths company, a written statement of his christian and surnames, and also, if he shall carry on trade in copartnership, of the style or firm of the said copartnership, and of his place of abode and business, and of his mark to be used as is herein-after provided, which said mark shall be the initial letters of his christian and surnames, or, in the case of members of a partnership, the initial letters of the words composing the style or firm under which the business of such partnership shall be carried on, and shall also from time to time, when any alteration of circumstances shall take place in any of the said particulars, send or deliver in as aforesaid a like statement of such alteration within two months after the same shall take place; and such statements respectively shall be entered by the said wardens, without fee or reward, in the respective books or registers of the said incorporation or company; and every such goldsmith, silversmith, or plate-worker, who shall neglect or refuse to send or deliver such statement, or who shall use or strike any other mark on such plate or ware as aforesaid than that which he shall so send or deliver, shall for every such offence forfeit and pay the sum of one hundred pounds, to be levied, recovered, and applied in manner herein-after mentioned.

3. Goldsmiths, &c. to strike their Mark on Plate, and send it to the Assay Office to be assayed, and, if found Standard, marked with certain Marks.—Every such goldsmith, silversmith, and plate-worker, or person carrying on any of the said trades in Scotland, shall first strike or stamp his mark upon all gold and silver plate or ware (except as is herein-after excepted) which he shall make or work, or cause or procure to be wrought or made, after the said first day of October one thousand eight hundred and thirty-six, and shall then bring or send the same to the assay office of the incorporation or company to which he shall have sent or delivered his name and firm, place of abode and business, and mark as aforesaid, together with a note or memorandum in writing specifying the day of the month and year when such plate is so sent to be assayed, the place of business and the christian and surnames of worker or maker, or the style or firm of the workers or makers of such plate, the several species in each parcel of plate, and the number of pieces of each species, with the total weight of such species, and the standard or quality for denoting which the worker or maker shall require such pieces respectively to be marked; and such plate or ware shall be assayed at such assay office in manner herein-after directed; and such gold plate or ware as shall be ascertained to be not less in fineness than twenty-two carats of fine gold in every pound weight troy, and such silver plate or ware as shall be ascertained to be not less in fineness than eleven ounces and two pennyweights of fine silver in every pound weight troy, shall be marked at such assay office as follows; that is to say, with the mark of the thistle, and with a distinct variable letter denoting the year in which such plate shall be marked, and also with the mark or marks used or to be used by the incorporation or company at whose assay office the same shall be assayed; and such

gold plate or ware as shall be ascertained to be not less in fineness than eighteen carats of fine gold in every pound weight troy, shall be marked with the figures 18, in addition to the said several marks herein-before required; and such silver plate or ware as shall be ascertained to be not less in fineness than eleven ounces and ten pennyweights of fine silver in every pound weight troy, shall be marked with the figure of Britannia, in addition to the several other marks herein-before required.

4. ASSAYERS MAY LEVY RATES UPON PLATE SENT TO BE ASSAYED.—It shall and may be lawful to and for the assayer of such assay office, or such other person or persons as shall be appointed for that purpose by the incorporation or company to which such assay office shall belong, and he and they are hereby authorized and empowered, to demand, levy, and receive from such person and persons as shall bring to such assay office any gold or silver plate or ware to be assayed and marked for the assaying and marking thereof, such sums of money as shall be found necessary for defraying the expenses of such assay office; and such sums shall or may be levied in respect of such plate or ware, either in proportion to the weight thereof, or by the piece upon any single piece of such plate or ware which shall not exceed, if of gold the weight of one ounce, or if of silver the weight of three ounces; provided always, that such sums, where the same shall be levied by weight, shall not exceed the rate of one shilling for every ounce of gold, and one penny for every ounce of silver, and so in proportion for any greater or less quantity; and that such sums, where the same shall be levied by the piece, shall not exceed one shilling for each piece of gold plate or ware, or threepence for each piece of silver plate or ware; and such incorporation and company respectively shall from time to time fix and appoint such sums so to be levied upon each ounce weight or upon each piece, according to the nature and description thereof, and hang up and maintain in their assay office a table of the rates for the time exigible by the assayer for the assaying and marking of plate and ware, which rates so fixed from time to time shall, with the exceptions herein-after mentioned, be charged and levied equally in respect of all plate and ware of the same species and weight or description which shall be assayed and marked at such assay office; and no reduction or advance which may be made, as herein-after provided, in the said rates, shall, either directly or indirectly, be made partially or in favour of or against any particular person or class of persons, but every such reduction or advance shall extend to all plate and ware of the same species and weight or description, and to all persons sending the same to be assayed and marked as aforesaid: Provided always, that such assayer or other person aforesaid shall deduct from the amount of the rates or sums demanded in respect of any parcel of plate or ware which shall be sent to such assay office from any distance greater than thirty miles therefrom, a sum not greater than one third of the amount of such rates or sums for or in respect of the expense of the carriage of such parcel to and from such assay office.

5. PLATE TO BE WEIGHED, &C.; AND, IF OF OBJECTIONABLE MANUFACTURE, TO BE RETURNED WITHOUT BEING MARKED; BUT, IF UNOBJECTIONABLE, DRAWINGS TO BE TAKEN FOR ASSAY AND DIET, &C.—All gold and silver plate and ware which shall be brought to either of the said assay offices, shall be weighed and examined by the assayer; and if it shall appear that the same is not all of one quality of gold or silver, or if it be not marked with the worker's mark, or if it be charged with unnecessary solder, or if all the pieces be not affixed together which it shall appear are intended to be affixed together, then in any of such cases, if no intention of fraud shall appear, such plate or ware shall be returned to the owner thereof without being marked; but if such plate or ware shall be found free from all the objections aforesaid, there shall be drawn or scraped so much from each piece, in proportion to the weight thereof, as will not exceed in the whole the rate of eight grains for every pound weight troy, and such drawings or scrapings shall immediately afterwards be divided into two equal portions, one whereof shall be kept by the assayer and used by him for the purpose of making his assays, and the other portion shall be locked up, with two different locks, in boxes to be provided for that purpose, which shall be called the assayer's boxes, the one of which shall be the box for gold and the other the box for silver, and in each of which boxes there shall be two compartments; and the respective keys of each of such boxes shall be kept by the deacon of the said incorporation, or by the chairman or preses of the said company respectively, and by the assayer of the said incorporation or company.

6. Assayer may test Plate—Plate containing undue quantity of Base Metal, &c. to be defaced and forfeited—Compensation to be made for Damage where Plate is found good—Disputes to be settled by two Justices.—If, on view of any wrought or manufactured plate or ware of gold or silver brought to either of the said assay offices to be assayed and marked, the assayer shall suspect that too great a quantity of base metal or solder is contained or concealed in such plate or ware, or has been used in or about the manufacture thereof, or shall discover or suspect that any fraud or deceit has been practised or intended in such manufacture by joining together metals of different standards of fineness in the same article, it shall be lawful for the said assayer, in the presence of any two or more of the wardens, whom in that case he is hereby directed to call in for the purpose, to break, cut asunder, or otherwise test such article; and if it shall appear that an undue quantity of base metal or solder is contained or present in any part thereof, or that the same has been fraudulently or deceitfully manufactured by joining together metals of different standards of fineness, some of such metals being worse than the standards with the marks denoting which such article shall have been required by the worker to be marked, such plate shall be defaced, and the same or the value thereof, together with the money paid or left for the assay and touch thereof, shall be forfeited to the said incorporation or company to whose assay office the same shall be brought, to be by them applied towards the expenses of their said assay office: Provided always, that if, on cutting, breaking, unsoldering, or otherwise testing the quality or manufacture of any such plate under the authority aforesaid, no unnecessary solder or other base metal shall be found therein, and no such fraud or deceit shall appear to have been practised in the manufacture thereof, the assayer and wardens so testing the same shall forthwith make recompence and satisfaction in money to the owner of such plate to the full amount of the damage done thereto, and charge the same to the account of the expenses of the assay office to which such article shall have been so brought; and in the event of the owner of such plate being dissatisfied with the judgment of the said assayer and wardens, the matter shall be settled and determined by two justices or magistrates of the city in which such assay office shall be situate, upon complaint being made to them by the party alleged to be injured; and such justices or magistrates may proceed by examination of witnesses on oath, if necessary, which oath they are hereby empowered to administer; and such sum as they shall see fit to award as the amount of damage, shall be recoverable as a debt due from the said wardens, assayer, or other officer, to the party so injured as aforesaid.

7. Portion of Drawings to be assayed, and if inferior to Standard, Plate to be defaced; if equal, Plate to be marked.—The portion of the drawings or scrapings of each piece of gold or silver plate or ware so taken by the assayer as aforesaid for the purpose of making his assays shall be assayed by him, and if the same shall be found to be of a quality inferior to that standard with the marks denoting which the owner or owners thereof shall have required the piece wherefrom such drawings or scrapings shall have been taken to be marked, such piece shall be broken and defaced, and in such defaced state returned to the owner; and such pieces as the said assayer shall ascertain to be of equal or superior fineness to the standard for denoting which the said owner or owners shall have required the same to be marked, shall be marked by the assayer with the marks hereby directed to be provided in that behalf, and delivered to the owner or bringer of such plate (he paying for the assay and marking thereof such sums as are hereby authorized to be charged and levied for assaying and marking such plate); and the drawings or scrapings belonging to such piece so marked shall be taken out of the assayer's box, and shall be deposited in boxes to be called the diet boxes to be provided for that purpose, the one of which shall be the box for gold and the other the box for silver, and in each of which boxes there shall be two compartments in such part thereof as shall be appropriated to the standard the marks of which shall have been stamped on the piece from which such drawings or scrapings shall have been taken; and each of such diet boxes shall be locked with two different locks, the respective keys whereof shall be kept by the said deacon and chairman or preses respectively and by the assayer; and the said boxes shall not be opened except in the presence of the said court of wardens and the said assayer, and none of the scrapings or drawings shall be taken out of either of such boxes except for the purpose of trial of the diet annually as hereinafter directed; and the other portion of the said scrapings or drawings, or so much thereof as shall remain after the assay thereof, shall be deposited together in the assayer's box in

the part thereof to be appropriated for that purpose, and the same shall be disposed of in manner herein-after directed.

8. Drawings shall be weighed four times a year and sold.—The assayer of the said incorporation or company respectively shall, in the presence of the respective wardens thereof, four times in every year duly weigh all the drawings and scrapings deposited in the assayer's boxes, and enter the true weight thereof in a book to be kept for that purpose; and it shall then be lawful for the said wardens to sell such drawings and scrapings; and the produce of such sale shall be entered in their book of receipts and payments for and on the account of their said assay office, and shall be applied towards the expenses of such office.

9. Diets to be tried annually.—The diet boxes belonging to the said incorporation and company respectively shall once in every year be opened in presence of the assayer and wardens thereof, who shall cause the diets contained therein, with a note of the alleged standards thereof respectively, to be delivered to such person or persons as shall from time to time be appointed by the Treasury, for the trial of gold and silver plate in Scotland; and such person or persons shall give to the assayer whose diets are to be tried notice of the time and place appointed for such trial, in order that he may be present thereat, if he thinks fit; and if upon such trial the said diets shall be found equal or superior to the alleged standards thereof respectively, then and in such case such person or persons shall return the said diets to or to the order of the wardens of the said incorporation and company respectively, who are hereby authorized to sell and dispose thereof, and having entered the produce thereof in the book of receipts and payments of their said assay office, to pay and apply such produce for and towards the expenses of such assay office.

10. Penalty on Assayer if Diets found inferior to Standards.—Provided always, that if on the said trial the said diets or any of them shall be found inferior in fineness to the alleged standards thereof respectively, the assayer belonging to the said incorporation or company whose diets shall be so tried shall forfeit and pay a sum not exceeding one hundred pounds, to be levied, recovered, and applied in manner herein-after mentioned.

11. Wardens and Assayers to take Oaths before entry upon Office.—Every warden and assayer to be hereafter appointed by the said incorporation of goldsmiths of Edinburgh, or Glasgow goldsmiths company, shall before entering upon their respective offices take an oath de fideli administratione; which oath the deacon or clerk of the said incorporation or company respectively is hereby required and empowered to administer to the said wardens and assayers respectively.

12. Assayers and Wardens not to discover, &c. Patterns of Plate—Assayers to keep proper Books—Penalty for discovering Patterns of Plate.—The assayers, wardens, or other officers of the said incorporation and company respectively shall not discover, by description in words or otherwise, to any person or persons whatsoever any pattern, design, or invention of any piece of gold or silver plate brought or to be brought to their respective assay offices to be assayed as aforesaid, or permit the same to be viewed or seen by any person whatsoever, except by the persons necessarily employed or to be employed in their said assay offices; and such assayers respectively shall keep a book or books, wherein shall be entered the names of every owner of plate brought to be assayed, and the several species and standards of plate assayed, and an account of the money received for the assaying thereof, and likewise an account of the monies arising from the drawings and scrapings of plate, and the times when the same shall be sold in manner herein-before directed, and also an account of the salaries and wages of the officers and servants, and of the other incidental expenses attending the carrying of this Act into execution; and every member of such incorporation and company respectively shall have free access to and inspection of such books; and if any such warden, assayer, or other officer shall, contrary to the true intent and meaning of this Act, discover any pattern or invention as aforesaid, such warden, assayer, or other officer shall for every such offence forfeit and pay a sum not exceeding one hundred pounds, to be levied, recovered, and applied in manner herein-after mentioned.

13. Custody of Dies—Penalty on Assayer for marking Plate not duly assayed.—The dies, punches, or marking instruments of the said incorporation and company shall be respectively locked up in a box, whereof the key shall be kept by the assayer of the said incorporation or company, to be used by him for the purpose of marking plate which shall have been assayed and ascertained to be of the proper standard; and if such

assayer shall mark or cause to be marked with any mark or impression of the said incorporation or company any plate that has not been duly assayed and found of the proper standard, such assayer shall for every such offence forfeit and pay a sum not exceeding one hundred pounds, to be levied, recovered, and applied in manner herein-after mentioned, and shall also be deprived of his office and be for ever afterwards incapable of exercising the office of assayer.

14. Incorporation and Company may make Bye Laws for the regulation of their Assay Offices.—It shall and may be lawful to and for the said incorporation and company, and each of them, or the major part of such incorporation or company, and they are hereby empowered, from time to time to make bye laws, rules, and orders for the well government and management of their respective assay offices, and for fixing the salaries and emoluments of their officers employed therein, and for prescribing the time and manner for receiving and returning plate brought to be assayed, and for every other purpose relative to the conduct and management of their respective assay offices.

15. Overplus of Rates to be applied in prosecution of Offenders—Rates may be reduced and again raised.—Provided also, that in case the said sums or rates hereby allowed to the said incorporation and company respectively for the assaying and marking of plate shall in the whole be more than sufficient to defray the expenses of such assay offices respectively, the overplus shall be applied by such incorporation or company to which such assay office shall belong in the prosecution of suspected offenders against this Act; and if such overplus shall be more than shall be required for that purpose, such incorporation or company shall respectively reduce their rates or sums hereby authorized to be levied as aforesaid, or such of them as they in their discretion shall think proper to be reduced, to such rates or sums as will answer the purposes before mentioned without bringing any profit to such incorporation or company: Provided always, that if such reduced rates shall at any time be found insufficient for the purposes before mentioned, the same may be raised again as much as shall be necessary for such purposes, such rates however never exceeding the rates herein-before authorized to be levied; and the said assayers of the said incorporation and company respectively are hereby authorized and empowered to levy and take such reduced or raised rates or sums in manner herein-before provided with respect to rates or sums which may be originally imposed.

16. Exception as to certain Gold Wares.—Provided always, that nothing herein contained shall extend to render it necessary that any of the following wares of gold should be stamped or marked with any of the marks hereby required; (that is to say,) rings, collets for rings or other jewels, chains, necklace beads, lockets, medals, hollow or raised buttons, sleeve buttons, thimbles, coral sockets and bells, ferrils, pipe lighters, cranes for bottles, very small book clasps, stock or garter clasps jointed, very small nutmeg graters, rims of snuff boxes whereof the tops and bottoms are made of shell or stone, sliding pencils, toothpick cases, tweezer cases, pencil cases, needle cases, any filigree work, any sorts of tippings or swages on stone or ivory cases, any mounts, screws, or stoppers to stone or glass bottles or phials, any small or light ornaments put to amber or other eggs of urns, any wrought seals, or seals with cornelian or other stones set therein, or any gold vessel, plate, or manufacture so richly engraved, carved, or chased, or set with jewels or other stones, as not to admit of an assay to be taken thereof, or a mark to be struck thereon, without damaging, prejudicing, or defacing the same, or such other things as by reason of the smallness or thinness thereof are not capable of receiving the marks hereby required, or any of them, and not weighing ten pennyweights of gold each.

17. Exception as to certain Silver Wares.—Nothing in this Act contained shall extend to render it necessary that any of the following wares of silver should be stamped or marked with any of the marks hereby required; (that is to say,) chains, necklace beads, lockets, any filigree work, shirt buckles or brooches, stamped medals, or spouts to china, stone, or earthenware tea-pots, or any of them, of any weight whatsoever, or tippings, swages, or mounts, or any of them, not weighing ten pennyweights of silver each, or any necks or collars for castors, cruets, or glasses appertaining to any sort of stand or frame, or any ware of silver whatsoever, not weighing five pennyweights of silver each, or any buttons to be affixed or set on any wearing apparel, solid sleeve buttons, and solid studs, not having a bisselled edge soldered on, wrought seals, blank seals, bottle tickets, shoe clasps, patch boxes, buckles, or any pieces to garnish cabinets of knife cases or tea chests, or bridles, or stands, or frames.

18. Penalty for selling or exporting Plate not duly marked.—If any goldsmith,

silversmith, or worker or dealer in plate, or other person, shall knowingly sell, exchange, or keep or expose for sale, or export or attempt to export out of Scotland, any gold or silver plate or ware (except as herein is excepted) made or wrought after the said first day of October one thousand eight hundred and thirty six, which shall not respectively be marked with the proper marks herein-before required to be stamped on the kind and standard quality of which such respective plate or ware shall be, every person so offending shall for each piece of gold or silver plate so sold, exchanged, or kept or exposed for sale, or exported or attempted to be exported as aforesaid, forfeit and pay a sum not exceeding one hundred pounds, and shall also forfeit all such plate and ware not duly marked as aforesaid, which shall be so sold, exchanged, or exposed or kept for sale, exported or attempted to be exported; such penalties and forfeitures to be levied, recovered, and applied in manner herein-after mentioned.

19. Persons forging or imitating Dies or Marks, stamping with Forged Dies, transposing Marks, selling Plate with Forged Marks thereon, &c., and fraudulently using the lawful Dies, guilty of Felony, &c.—If any person shall forge or counterfeit, or shall cause or procure to be forged or counterfeited, any die, punch, or other marking instrument, or any part of any die, punch, or marking instrument, used or provided or to be used or provided for striking or impressing any mark or impression by this Act directed to be used, or which in pursuance of this Act hath been or shall or may be used, by or under the direction of the said incorporation or company respectively, or by any maker or worker of gold or silver plate, or by or under the direction of any other person or persons legally authorized in that behalf, for the purpose of stamping or marking gold or silver plate; or if any person shall forge, counterfeit, or imitate, or shall cause or procure to be forged, counterfeited, or imitated, upon any gold or silver plate, or upon any ware or manufacture of base metal or mixture of metals, the stamp, mark, or impression, or any part of the stamp, mark, or impression, of any such die, punch, or other marking instrument as aforesaid; or if any person shall stamp or mark, or shall cause or procure to be stamped or marked, any gold or silver plate, or any ware or manufacture of base metal, with any such forged or counterfeit die, punch, or marking instrument, or part of a die, punch, or marking instrument as aforesaid; or if any person shall transpose or remove, or shall cause or procure to be transposed or removed, from any piece of gold or silver plate to any other piece of plate either of gold or silver, or to any ware or manufacture of base metal, any mark or impression directed to be used or which hath been or shall or may be used as aforesaid; or if any person shall sell, exchange, or expose for sale, or shall export or attempt to export out of any part of Scotland, or shall knowingly and without lawful excuse (the proof whereof shall lie on the person accused) have in his possession any gold or silver plate, or any ware or manufacture of base metal, having thereupon the mark or impression of or from any such forged or counterfeit die, punch, or marking instrument as aforesaid, or having thereupon any such forged or counterfeit mark or impression as aforesaid, or any mark or impression which shall have been so transposed or removed as aforesaid, knowing the same respectively to be forged, counterfeit, transposed, or removed; or if any person shall knowingly and without lawful excuse (the proof whereof shall lie on the person accused) have in his possession any such forged or counterfeit die, punch, or marking instrument, or part of a die, punch, or marking instrument as aforesaid; or if any person shall cut out of or sever from any piece of plate of gold or silver any mark or impression, or any part of any mark or impression, made with any such die, punch, or marking instrument as aforesaid, with intent that such mark or impression, or part of a mark or impression, shall or may be placed upon or joined or affixed to any other piece of plate either of gold or silver, or to any ware or manufacture of base metal; or if any person shall place upon or join or affix to any piece of plate, either of gold or silver, or any ware or manufacture of base metal, any such mark or impression, or any part of any such mark or impression, which hath been or shall have been cut out of or severed from any piece of plate of gold or silver; or if any person shall privately or secretly employ or use, or cause or procure to be employed or used, any genuine or lawful die, punch, or marking instrument so used or provided or to be used or provided as aforesaid; then and in every such case every such offender, and every person counselling, aiding, or abetting such offender, shall be guilty of felony, and, being convicted thereof, shall be liable . . . to be transported beyond the seas for life . . . . . .

S. 19 *in part rep.* 55 & 56 *Vict. c.* 19 (*S.L.R.*)

20. Upon information on Oath against persons suspected of Felonious Offences, Justices may grant Search Warrants, &c.—Plate, Wares, and Manufactures seized shall be forfeited.—Upon information given before any justice of the peace upon the oath of one or more credible person or persons (which oath such justice is hereby empowered and required to administer), that there is reasonable or probable cause to suspect any person of being or having been engaged or concerned in making any false or counterfeit die, punch, or other instrument, for the purpose of unlawfully marking any gold or silver plate, or any ware or manufacture of base metal or mixture of metals, or of being or having been engaged or concerned in the unlawful stamping or marking of any such plate, ware, or manufacture as aforesaid, or of being or having been unlawfully possessed of any such false or counterfeit die, punch, or instrument as aforesaid, or of any such plate, ware, or manufacture as aforesaid with any counterfeit mark or impression thereon, or of being or having been engaged or concerned in fraudulently or unlawfully, or without due authority, marking or impressing any genuine or lawful die, punch, or instrument on any such plate, ware, or manufacture, or of being or having been unlawfully possessed of any such genuine or lawful die, punch, or instrument, or of being or having been engaged or concerned in the commission of any other felonious or fraudulent act or offence with relation to the assaying and marking of gold or silver plate, it shall be lawful for such justice and he is hereby required, on the application of any warden or other officer of the said incorporation or company, to grant a warrant under his hand, directed to any constable, peace officer, or other person or persons named in such warrant, authorizing or empowering him or them, with such other person or persons as he or they shall call to his or their assistance, to enter and search any house, room, shop, warehouse, outhouse, building, or other place belonging to such suspected person, or where such person shall be suspected of being or having been engaged or concerned in the commission of any such offence as aforesaid, or where any such die, punch, or instrument, or plate, ware, or manufacture as aforesaid, shall be or shall be suspected to be, and there to search for, seize, and take away all such dies, punches, or instruments, and all such plate, wares, and manufactures as aforesaid, in order that the same may be given in evidence against any such offender; and all plate, wares, and manufactures which shall be lawfully seized as forfeited under any of the provisions of this Act by any officer of the said incorporation or company, or which shall be lawfully seized under any such warrant as aforesaid, granted on the application of any such officer, shall be forfeited to the incorporation or company to which such officer shall belong, and shall be disposed of as such incorporation or company shall think fit.

21. Penalty on striking Letters on Base Metal.—If any goldsmith, silversmith, or worker or dealer in wrought gold or silver plate, or any worker or dealer in any other metal, shall stamp or cause to be stamped any letter or letters upon any article or thing made of metal plated or covered with gold or silver, or of any metal or mixture of metals made or intended to resemble gold or silver, every such person or persons shall for every such offence forfeit and pay a sum not exceeding one hundred pounds, to be levied, recovered, and applied in manner herein-after mentioned.

22. Recovery and application of Penalties.—All penalties and forfeitures imposed by this Act shall be recovered by any person or persons who shall sue for the same before any two justices of the peace having jurisdiction within the county, city, borough, or place in which the offence shall have been committed or where the alleged offender shall reside, or before the sheriff of any such county; and it shall be lawful for such justices or sheriff to proceed in a summary way, and to grant warrant for bringing the parties complained of immediately before them or him, and on proof by the confession of the offender, or on the oath of one or more credible witness or witnesses or other legal evidence, forthwith to determine and give judgment in such complaint; and if on conviction the penalties hereby imposed be not immediately paid, the said justices or sheriff are hereby empowered to grant warrant for the recovery thereof, and of the expenses decreed for, by poinding and sale, according to the law of Scotland; and in case such penalties shall not be forthwith paid upon conviction, and if by the confession of the offender, or the report of a sheriff's officer or constable, it shall appear that no sufficient goods or effects can be found within any place in the said county known to such officer or constable, then it shall be lawful for such justices or sheriff, by a warrant under their or his hand, to cause such offender or offenders to be committed to the

common gaol or house of correction for the said county where the matter of complaint may arise, or for the nearest burgh in such county, there to remain without bail for such time as such justices or sheriff shall direct, not exceeding six calendar months, unless such penalties and all reasonable charges attending the recovery thereof shall be sooner paid and satisfied; and the penalties so paid or recovered shall belong, one half thereof to the person or persons suing for the same, and the other half thereof to his Majesty;

. . . . .

S. 22 *in part rep.* 54 & 55 *Vict. c.* 67 (*S.L.R.*).

[*S.* **23** *rep.* 55 & 56 *Vict. c.* 19 (*S.L.R.*).]

24. Act not to affect 59 Geo. 3, c. xxviii. or Acts granting Duties on Plate or on Dealers Licences.—Nothing herein contained shall affect or alter, or be construed to affect or alter, the provisions of an Act passed in the fifty-ninth year of his late Majesty King George the Third, intituled "An Act for establishing an assay office in "the city of Glasgow," but such Act shall continue in full force and effect, except so far as the same is expressly altered or varied by this Act; and nothing herein contained shall in any manner supersede or annul any of the enactments, clauses, powers, offences, or penalties created by any Act or Acts now in force whereby any duty or duties are or have been granted to his Majesty on wrought or manufactured plate, or on any licence or licences which are or may be required to be taken out by dealers in such plate.

[*S.* **25** *rep.* 51 & 52 *Vict. c.* 57 (*S.L.R.*).]

CHAPTER CX.

The Copyright Act, 1836 (*Short Titles Act*, 1896).

An Act to repeal so much of an Act of the Fifty-fourth Year of King George the Third, respecting Copyrights, as requires the Delivery of a Copy of every published Book to the Libraries of Sion College, the Four Universities of Scotland, and of the King's Inns in Dublin. [20th August 1836.]

[*Preamble recites* 54 *Geo.* 3, *c.* 156.]

[*S.* **1** (*repealing so much of* 54 *Geo.* 3, *c.* 156, *as requires delivery of books to the libraries of Sion College, the four Universities of Scotland, and the King's Inns, Dublin*) *rep.* 37 & 38 *Vict. c.* 35 (*S.L.R.*).]

2. Compensation to be made to the said Libraries out of Consolidated Fund.—It shall be lawful for the Treasury, from time to time to issue and pay out of the consolidated fund of the United Kingdom of Great Britain and Ireland, to the person or persons or body politic or corporate, proprietors or managers, of each of the aforesaid libraries, such an annual sum as may be equal in value to and a compensation for the loss which any such library may sustain by reason of the said Act being repealed, so far as relates to such library; such annual compensation to be ascertained and determined according to the value of the books which may have been actually received by each such library, in such manner as the Treasury shall direct upon an average of the three years ending the thirtieth day of June one thousand eight hundred and thirty-six.

3. Application of the Compensation.—The person or persons or body politic or corporate, proprietors or managers of the library for the use whereof any such book would have been delivered, shall and they are hereby required to apply the annual compensation hereby authorized to be made in the purchase of books of literature, science, and the arts, for the use of and to be kept and preserved in such library: Provided always, that it shall not be lawful for the Treasury to direct the issue of any sum of money for such annual compensation until sufficient proof shall have been adduced before them of the application of the money last issued to the purpose aforesaid.

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7 WILLIAM IV. & 1 VICTORIA, 1837.

CHAPTER XIV.

THE JURY TRIALS (SCOTLAND) ACT, 1837 (*Short Titles Act*, 1896).

AN ACT to explain and amend Two Acts relating to Trial by Jury in Scotland. [8th June 1837.]

[*Preamble recites* 55 *Geo.* 3, *c.* 42, *s.* 7; 59 *Geo.* 3, *c.* 35, *s.* 17.]

1. ON BILLS OF EXCEPTIONS, THE COURT OF SESSION OR HOUSE OF LORDS SHALL NOT ORDER A NEW TRIAL UNLESS THEY ARE OF OPINION THAT THE EXCEPTION SHOULD BE ALLOWED, &c.—In all cases in which any bill of exceptions is brought before the Court of Session, or carried by appeal to the House of Lords, it shall not be competent to the Court of Session or to the House of Lords in pronouncing judgment on such bill of exceptions to make any order or to pronounce any judgment ordering a new trial, unless the said court or House of Lords shall be of opinion that the exception is to be allowed; and in all cases of bills of exceptions in which it shall be the opinion of the said court or House of Lords that the law directed at the trial, or the determination to receive or reject evidence, and excepted to, is correct, the said court or House of Lords shall make an order that the bill of exceptions shall be disallowed, and that the verdict found by the jury shall be carried into effect by a judgment pronounced thereon for the party in whose favour the said verdict was found; anything in the said recited Acts, or in any other Act of Parliament, to the contrary notwithstanding.

STATUTES OF QUEEN VICTORIA.

7 WILLIAM IV. & 1 VICTORIA, 1837.

CHAPTER XXXI.

THE DEMISE OF THE CROWN ACT, 1837 (*Short Titles Act*, 1896).

AN ACT for continuing Military Commissions and Commissions in the Royal Marines in force notwithstanding the Demise of the Crown. [12th July 1837.]

[*Preamble.*]

1. MILITARY, &c. COMMISSIONS TO CONTINUE IN FORCE NOTWITHSTANDING THE DEMISE OF THE CROWN.— . . . Upon any demise of the Crown all commissions in the army and royal marines then in force shall continue in force until cancelled by direction of the succeeding King or Queen of this realm: Provided always, that nothing in this Act contained shall be construed to deprive her Majesty of the power of removing and discharging any person from any such employment or commission held by him in like manner as might by law have been done if this Act had not been passed.

S. 1 *in part rep.* 53 & 54 *Vict. c.* 51 (*S.L.R.*).

CHAPTER XXXII.

THE POST OFFICE (REPEAL OF LAWS) ACT, 1837 (*Short Titles Act*, 1896).

AN ACT to repeal the several Laws relating to the Post Office.

[12th July 1837.]

[*Preamble.*]

[*S.* **1** *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).]

2. ALL ACTS AND PARTS OF ACTS RELATING TO THE POST OFFICE REPEALED, EXCEPT THOSE MENTIONED IN SCHEDULE (B.).—And in order that no doubt should remain whether any, or what, if any, former Acts relating in any way to the Post Office continue in force, be it enacted, that all Acts and parts of Acts relating to the revenue of the Post Office, or relating to the management of the business of the Post Office, or relating to the privilege of sending and receiving letters free of postage or at a reduced rate of postage, or relating to offences against the Post Office, which are punishable specifically by the Post Office laws, shall be hereby repealed so far as such Acts shall be in force at the commencement of this Act, save such Acts and parts of Acts as are mentioned in the schedule (B.) hereunto annexed, and also save all other Acts expressly made for other purposes, although they incidentally touch on matters relating to the Post Office, or although the provisions thereof are to be carried into effect by officers of the Post Office; nevertheless such matters and provisions last mentioned, so far as they are repugnant to or inconsistent with the Post Office Acts in force at the time, shall be in all respects controlled by such Post Office Acts, unless the contrary shall have been expressed in such other Acts.

3. ACT TO BE INTERPRETED AS 7 WILL. 4 & 1 VICT. C. 36.—All the provisions of this Act shall be construed according to the respective interpretations of the terms and expressions contained in an Act passed in the present session, intituled "An Act for "consolidating the laws relative to offences against the Post Office of the United "Kingdom, and for regulating the judicial administration of the Post Office laws, and "for explaining certain terms and expressions employed in those laws," so far as those interpretations are not repugnant to the subject or inconsistent with the context of such provisions.

[*S.* **4** *rep.* 53 *&* 54 *Vict. c.* 51 (*S.L.R.*). *S.* **5** *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).]

SCHEDULES to which the foregoing Act refers.

[*Sched.* (*A.*) *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).]

SCHEDULE (B.)

Containing a description of the Acts and parts of Acts saved from the operation of this Act.

Date of Act.	Title.	Extent of Saving.
. . . . .	. . . . .	. . . . .
9 A. c. 10 - -	An Act for establishing a General Post Office for all her Majesty's dominions, and for settling a weekly sum out of the revenues thereof for the service of the war and other her Majesty's occasions.	So much . . . . as relates to her Majesty's hereditary revenue . . . .
1 G. 1, c. 78 - -	An Act to enable his Majesty to grant letters patent to supply a defect in a grant made by his Majesty King	The whole.

Date of Act.	Title.	Extent of Saving.
	William the Third unto Maynard Duke of Schomberg and Leinster, of the annual sum of four thousand pounds out of the revenue of the Post Office until the sum of one hundred thousand pounds be paid.	
. . . . .	. . . . .	. . . . .
48 G. 3, c. 48 - -	An Act to enable his Majesty's postmaster general of Ireland to purchase premises for the enlargement of the General Post Office in the city of Dublin.	The whole.
. . . . .	. . . . .	. . . . .
53 G. 3, c. 89 - -	An Act for the more regular conveyance of writs for the election of members to serve in Parliament.	The whole.
. . . . .	. . . . .	. . . . .
54 G. 3, c. 63 - -	An Act to amend several Acts for enabling his Majesty's postmaster general of Ireland to purchase premises for the enlargement of the General Post Office in the city of Dublin.	The whole.
55 G. 3, c. 91 (Local Act) - - -	An Act for enlarging and improving the west end of Cheapside in the city of London, also Saint Martin's-le-Grand, Aldersgate Street, Saint Anne's Lane, and Foster Lane; and for providing a site for a new post office between Saint Martin's-le-Grand and Foster Lane aforesaid.	The whole.
. . . . .	. . . . .	. . . . .
5 G. 4, c. 5 - -	An Act for enabling a conveyance to be made of part of a house in Lombard Street, vested in the right honourable Henry Frederick Lord Carteret, formerly his Majesty's postmaster general.	The whole.
. . . . .	. . . . .	. . . . .
1 W. 4, c. 27 - -	An Act for enabling his Majesty's postmaster general to sell the premises lately used as the post office in Lombard Street, Abchurch Lane, and Sherborne Lane in the city of London.	The whole.
. . . . .	. . . . .	. . . . .

Sched. (B.) in part rep. 37 & 38 *Vict. c.* 35 (*S.L.R.*), 51 & 52 *Vict. c.* 57 (*S.L.R.*), *and* 54 & 55 *Vict. c.* 67 (*S.L.R.*).

CHAPTER XXXIII.

THE POST OFFICE (MANAGEMENT) ACT, 1837 (*Short Titles Act*, 1896).

AN ACT for the Management of the Post Office. [12th July 1837.]

[*Preamble.*]

[*S.* **1** *rep.* 53 & 54 *Vict. c.* 51 (*S.L.R.*).]

2. POSTMASTER GENERAL TO BE MASTER OF THE POST OFFICE AND TO HAVE EXCLUSIVE PRIVILEGE OF CONVEYING LETTERS, &C.—EXCEPTIONS FROM EXCLUSIVE PRIVILEGE—SPECIAL PROHIBITIONS ON CARRYING LETTERS.—Her Majesty's postmaster general and the person or persons to be from time to time hereafter appointed by the Queen's Majesty by letters patent under the great seal of Great Britain, shall be the master of the Post Office by the style of Her Majesty's postmaster general; and wheresoever within the United Kingdom and other her Majesty's dominions posts or post communications are now or may be hereafter established, the postmaster general by himself or by his deputies and their respective servants and agents, shall have the exclusive privilege of conveying from one place to another all letters, except in the following cases, and shall also have the exclusive privilege of performing all the incidental services of receiving, collecting, sending, despatching, and delivering all letters, except in the following cases; (that is to say,)

Letters sent by a private friend in his way, journey, or travel, so as such letters be delivered by such friend to the party to whom they shall be directed:

Letters sent by a messenger on purpose, concerning the private affairs of the sender or receiver thereof:

Commissions or returns thereof, and affidavits and writs, process or proceedings, or returns thereof, issuing out of a court of justice:

Letters sent out of the United Kingdom by a private vessel (not being a packet boat):

Letters of merchants, owners of vessels of merchandize, or the cargo or loading therein, sent by such vessels of merchandize, or by any person employed by such owners for the carriage of such letters, according to their respective directions, and delivered to the respective persons to whom they shall be directed, without paying or receiving hire or reward, advantage or profit for the same in anywise:

Letters concerning goods or merchandize sent by common known carriers, to be delivered with the goods which such letters concern, without hire or reward or other profit or advantage for receiving or delivering such letters:

But nothing herein contained shall authorize any person to make a collection of such excepted letters for the purpose of sending them in the manner hereby authorized:

And the following persons are expressly forbidden to carry a letter, or to receive or collect or deliver a letter, although they shall not receive hire or reward for the same; (that is to say,)

Common known carriers, their servants or agents, except a letter concerning goods in their carts or waggons or on their pack horses, and owners, drivers, or guards of stage coaches:

Owners, masters, or commanders of ships, vessels, steam boats, or boats called or being passage or packet boats, sailing or passing coastwise or otherwise between ports or places within Great Britain or Ireland, or between, to, or from a port or ports within her Majesty's dominions or territories out of the United Kingdom, or their servants or agents, except in respect of letters of merchants, owners of ships or goods on board:

Passengers or other persons on board any such ships, vessels, steam boat, passage or packet boat:

The owners of, or sailors, watermen, or others on board, a ship, vessel, steam boat, or other boat or barge, passing or repassing on a river or navigable canal within the United Kingdom or other her Majesty's dominions.

[*Ss.* **3–6** *rep.* 54 *&* 55 *Vict. c.* 67 (*S.L.R.*).]

7. POSTMASTER GENERAL MAY TAKE INDEMNITY FOR INCREASED CHARGE OF EXTENDING

Post Office Accommodations.—The postmaster general may enter into an agreement with or take security from any person applying to him to extend the accommodations of the post to any place, for indemnifying the revenue against the expenses which shall be incurred thereby beyond the amount of postages received; and the indemnification may be either for the whole or part of the expenses incurred, and for such time as the postmaster general shall think necessary.

[*S.* **8** *rep.* 54 *&* 55 *Vict. c.* 67 (*S.L.R.*).]

9. Postmaster General may appoint Deputies, &c.—The postmaster general may appoint sufficient deputies, agents, and servants under him, for the better managing the Post Office revenue at the several places within the United Kingdom and other her Majesty's dominions where posts or post communications shall be established; and whenever the postmaster general is by the Post Office laws empowered or required to do any act, all such deputies, servants, and agents, according to the nature and extent of their commission or deputation or appointment, shall be construed to be so empowered or required, unless the contrary be expressed therein.

10. Declaration to be made before office in Post Office can be held.—No person hereafter appointed shall be capable of holding the office of postmaster general, or of being an officer of the Post Office, unless such person shall have first made and subscribed the declaration contained in the schedule hereunto annexed before a justice of the peace acting for the place where such person resides; which declaration such justice shall (on application to that effect) administer and take accordingly.

11. Saving of Patent of Postmaster General, and other Appointments, &c.—7 Will. 4 & 1 Vict. c. 32.— . . . The postmaster general shall have all the same powers and immunities, rights and privileges, as the two postmasters general of Great Britain and Ireland would have been entitled to in right of their respective offices in case they had been separately appointed by letters patent under the great seal of Great Britain and Ireland respectively; and all contracts and agreements or other engagements entered into by, with, or between her Majesty's postmaster general for the time being in Great Britain and Ireland and any other person, and all bonds, instruments, or other securities for the due performance of the same, shall be of the like force as the same would have been in case the said recited Act of the present session, intituled "An Act "to repeal the several laws relating to the Post Office," had not been passed.

S. 11 *in part rep.* 53 *&* 54 *Vict. c.* 51 (*S.L.R.*), *and* 54 *&* 55 *Vict. c.* 67 (*S.L.R.*).

12. Persons employed by the Post Office exempt from certain offices.—. . . No postmaster general nor any officer of the Post Office shall be compelled to serve as a mayor or sheriff, or in any ecclesiastical or corporate or parochial or other public office or employment, or to serve on any jury or inquest, or in the militia; any law or custom to the contrary thereof notwithstanding.

S. 12 *in part rep.* 53 *&* 54 *Vict. c.* 51 (*S.L.R.*), *and specially extended to Scotland, notwithstanding any enactment subsequent to this Act,* 54 *&* 55 *Vict. c.* 46, *s.* 9.

13. Monies arising from Post Office Duties to be paid into the Exchequer and carried to the Consolidated Fund.—The monies to arise by the several duties granted by the Post Office Acts (except the monies which shall be necessary to defray such expences as shall be incurred in the receipt and management of the same, and except all annuities and yearly sums now charged thereon by law,) shall be paid into the receipt of her Majesty's Exchequer, and carried to and made part of the consolidated fund of the United Kingdom of Great Britain and Ireland.

14. Payment of Charges of Post Office.—All charges, outgoings, and disbursements necessary for the receipt and management of the duties of postage, and all other expenses attending the management of the Post Office and the due execution of the several Post Office Acts, shall be allowed and paid in like manner as the same have heretofore been allowed and paid.

[*S.* **15** *rep.* 54 *&* 55 *Vict. c.* 67 (*S.L.R.*). *S.* **16** *rep.* 3 *&* 4 *Vict. c.* 96, *s.* 68.]

17. Duties of Accountant General.—The postmaster general shall cause an account to be kept by an accountant general in England and Ireland respectively of all monies arising from the duties of postage, as they shall from time to time be brought

into the Post Office to the hands of the receivers general of the Post Office in England or Ireland: Provided always, that the powers, authorities, and duties of the said accountant general shall be to the extent and shall be exercised in the like manner as they have heretofore existed and been exercised under the provisions of any Act in force at the commencement of the present session, notwithstanding any thing in the Post Office Acts to the contrary, subject to such alterations and regulations as may from time to time be made by the postmaster general, with the concurrence of the Treasury.

18. TOLLS ON MAILS SHALL NOT BE DEMANDED AT GATES, &C., BUT SHALL BE PAID PERIODICALLY BY THE POST OFFICE—PROVISIONS AS TO TOLLS IN SCOTLAND; IN IRELAND.—And in order that the progress of her Majesty's mails may not be retarded by the demand of tolls at toll gates or other places where tolls are by law chargeable on horses and carriages passing such places, be it enacted that no person shall demand any toll upon the passing of any carriage or horse conveying the mail at places where tolls are otherwise demandable, but such tolls shall be accounted for and paid by her Majesty's postmaster general according to the following provisions; (that is to say,)

The tolls leviable in Scotland shall be paid out of the revenue of the Post Office in Scotland at such time and in such manner as may be agreed upon between the several trustees entitled to receive the same and her Majesty's postmaster general, but so that payment shall be made at least once in every three calendar months; and the trustees of any turnpike road in Scotland may enter into any agreement with her Majesty's postmaster general as to the amount of tolls that shall be paid for a mail coach travelling along such turnpike road, without any limitation as to the amount of the tolls to be payable, or the number of years for which such agreement shall subsist; nevertheless, when such an agreement shall not be made, or being made shall not be performed, then the several tolls leviable for such carriage or horses carrying the said mail or packet may be recoverable in the names of the respective treasurers or clerks of the respective trusts in the Court of Session in Scotland by summary application against her Majesty's postmaster general:

And with respect to the tolls leviable in Ireland the postmaster general shall cause an account to be kept of all tolls payable for four-wheel carriages carrying her Majesty's mail at the respective turnpike gates either on turnpike roads or at the ends of bridges through which they shall pass, and shall from time to time cause the amount thereof to be paid by equal quarterly payments to the treasurers to the turnpike roads and to the treasurers of the bridges or other persons to whom such tolls are respectively payable; but no mail coach, mail diligence, or mail cart conveying or employed to carry any mail or bag of letters in Ireland, shall be charged with any toll more than once in the same division of road in the same day, calculating from twelve of the clock at night till twelve of the clock the succeeding night, and no change of horses shall subject any such coaches, diligence, or cart to any additional toll at any turnpike gate whatsoever, except where any additional toll shall be payable by virtue of any Act in force immediately preceding the passing of the Act for repealing the several laws relating to the Post Office first herein recited.

19. EXEMPTIONS FROM TOLLS IN FAVOUR OF THE MAILS IN ENGLAND; IN SCOTLAND; IN IRELAND.—And in order that the charges of the Post Office may not be unnecessarily increased by the addition of other charges of a public nature, be it enacted, that no toll shall in England be demanded or taken by virtue of any Act or Acts of Parliament on any turnpike road for any horses or carriages of whatever description employed in conveying mails or expresses under the authority of the postmaster general, either when employed in conveying, fetching, or guarding such mails or expresses, or in returning back from conveying or guarding the same, except where such horses or carriages were legally chargeable with toll immediately preceding the passing of the Act for repealing the several laws relating to the Post Office first herein recited; and no turnpike tolls shall in Scotland be charged on carriages with two wheels conveying only the mail or packet with their driver, and any horse or horses drawing the same, and any horse not drawing, employed in conveying the said mail or packet; and no turnpike tolls shall in Ireland be charged on carriages with two wheels conveying the mail or packet, and any horse or horses drawing the same, and any horse not drawing, employed in conveying the said mail or packet, except where any such respective horses or carriages were

legally chargeable with toll immediately preceding the passing of the Act for repealing the several laws relating to the Post Office first herein recited.

20. Consent, &c. of the Treasury how to be signified.—Wherever the consent or direction or any other act of the Treasury is prescribed by the Post Office Acts, such consent or direction or any other act may be signified either under the hands of the lords of the Treasury or under the hand of one of their secretaries or assistant secretaries.

21. Interpretation Clause—7 Will. 4 & 1 Vict. c. 36.—All the provisions of this Act shall be construed according to the respective interpretations of the terms and expressions contained in an Act passed in the present session, intituled "An Act for "consolidating the laws relative to offences against the Post Office of the United Kingdom, "and for regulating the judicial administration of the Post Office laws, and for explaining "certain terms and expressions employed in those laws," so far as those interpretations are not repugnant to the subject or inconsistent with the context of such provisions.

[*S.* **22** *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).]

SCHEDULE to which the foregoing Act refers.

I do solemnly and sincerely declare, that I will not wittingly or willingly open or delay, or cause or suffer to be opened or delayed contrary to my duty, any letter or any thing sent by the post which shall come into my hands or custody by reason of my employment relating to the Post Office, except by the consent of the person or persons to whom the same shall be directed, or by an express warrant in writing under the hand of one of the principal secretaries of state [or, as to Ireland, under the hand of the lord lieutenant] for that purpose, or except in such cases where the party or parties to whom such letter or anything sent by the post shall be directed, and who is or are chargeable with the payment of the postage thereof, shall refuse or neglect to pay the same, and except such letters or anything sent by the post as shall be returned for want of true directions, or when the party or parties to whom the same shall be directed cannot be found; and that I will not in any way embezzle any such letter or any thing sent by the post as aforesaid; and I make this solemn declaration conscientiously intending to fulfil and obey the same, and by virtue of the provisions of an Act passed in the first year of the reign of Her Majesty Queen Victoria, intituled "An Act for the management and regulation of the Post Office."

This declaration was made before me the day of .

CHAPTER XXXVI.

The Post Office (Offences) Act, 1837 (*Short Titles Act*, 1896).

An Act for consolidating the Laws relative to Offences against the Post Office of the United Kingdom, and for regulating the judicial Administration of the Post Office Laws, and for explaining certain Terms and Expressions employed in those Laws. [12th July 1837.]

[*Preamble.*]

[*S.* **1** *rep.* 53 *&* 54 *Vict. c.* 51 (*S.L.R.*).]

2. Penalty for contravening the Privilege of the Post Office.— . . . Every person who shall convey otherwise than by the post a letter not exempted from the exclusive privilege of the postmaster general, shall for every letter forfeit five pounds; and every person who shall be in the practice of so conveying letters not so exempted, shall, for every week during which the practice shall be continued, forfeit one hundred pounds; and every person who shall perform otherwise than by the post any services incidental to conveying letters from place to place, whether by receiving or by taking up or by collecting, or by ordering or by despatching, or by carrying or by re-carrying,

or by delivering a letter not exempted from the exclusive privilege of the postmaster general, shall forfeit for every letter five pounds, and every person who shall be in the practice of so performing any such incidental services, shall, for every week during which the practice shall be continued, forfeit one hundred pounds; and every person who shall send a letter not exempted from the exclusive privilege of the postmaster general otherwise than by the post, or shall cause a letter not so exempted to be sent or conveyed otherwise than by post, or shall either tender or deliver a letter not so exempt in order to be sent otherwise than by post, shall forfeit for every letter five pounds, and every person who shall be in the practice of committing any of the acts last mentioned, shall, for every week during which the practice shall be continued, forfeit one hundred pounds; and every person who shall make a collection of exempted letters for the purpose of conveying or sending them otherwise than by the post, or by the post, shall forfeit for every letter five pounds; and every person who shall be in the practice of making a collection of exempted letters for either of those purposes, shall forfeit, for every week during which the practice shall be continued, one hundred pounds: And the term "post" shall herein include all post communications by land or by water (except by outward-bound vessels not being employed by or under the Post Office or the Admiralty to carry post letters); and the above penalties shall be incurred whether the letter shall be sent singly or with any thing else, or such incidental service shall be performed in respect to a letter either sent or to be sent singly or together with some other letter or thing; and in any prosecution by action or otherwise for the recovery of any such penalty the onus shall lie upon the party prosecuted to prove that the act in respect of which the penalty is alleged to have been incurred was done in conformity to the Post Office laws.

S. 2 *in part rep.* 53 *&* 54 *Vict. c.* 51 (*S.L.R.*).

3. Penalty on persons on board Ships retaining Letters after delivery of Letters to the Post Office.—Every person, being either the master of a vessel inward-bound, or one of the officers, or one of the crew, or a passenger thereof, who shall knowingly have any letter in his possession not exempted from the privilege of the postmaster general, after the master shall have sent any part of the ship's letters to the Post Office, shall forfeit for every letter five pounds; and whether the letter be in the baggage or on the person of the offender, or otherwise in his custody, it shall be held to be in his possession; and every such person who shall detain any such letter after demand made, either by the officer of the customs or by a person authorized by the postmaster general to demand ship's letters, shall forfeit for every letter ten pounds.

4. Penalties for abusing the Franking Privilege—Penalty for falsely superscribing a Letter as Owner of a Vessel, &c.— . . . Every person having the command of a ship or vessel, or regiment or corps or detachment, who is authorized to write his name, and the name of the ship, or of the vessel, or of the regiment or corps or detachment, commanded by him, upon a single letter from a seaman or soldier privileged to send his letter at a reduced rate of postage, who shall wilfully write his name upon a letter that it is not from and on the private concerns only of such seaman or soldier so privileged, shall for every such offence forfeit five pounds; and every person not having at the time the command of the ship or vessel, or regiment or corps or detachment, to which a seaman or soldier so privileged belongs, who shall write his name upon a letter in order that the same may be sent at a lower rate of postage than by law established, shall for every such offence forfeit five pounds; and every person who shall procure a seaman or soldier to obtain the signature of his commanding officer to a letter to be sent by the post which shall not be on the private concerns of such seaman or soldier, and every such seaman or soldier who shall obtain the signature of his commanding officer upon a letter which shall not be from such seaman or soldier, and upon his own private concerns only, in order to avoid the payment of the rates of postage by law established, shall for every such offence forfeit five pounds; and every person who shall wilfully address a letter to such seaman or soldier having the privilege of receiving his letters at a reduced rate, which shall be intended for another person, or which shall be concerning the affairs of another person, with intent to evade the payment of the rate of postage by law established, shall for every such offence forfeit five pounds; and every person who shall, with intent to evade any duty of postage, falsely superscribe a letter as being the owner or the charterer or the

consignee of a vessel conveying the same, or as the owner or the shipper or the consignee of goods shipped in such vessel, shall for every such offence forfeit ten pounds.

S. 4 *in part rep.* 53 & 54 *Vict. c.* 51 (*S.L.R.*), *and* 54 & 55 *Vict. c.* 67 (*S.L.R.*).

[*S.* 5 *rep.* 47 & 48 *Vict. c.* 76, *s.* 21.]

6. Penalties on Masters of Ships not taking Letter Bags, &c.—7 Will. 4 & 1 Vict. c. 34.— . . . Every master of a vessel outward-bound to Ceylon, the Mauritius, the East Indies, or the Cape of Good Hope, who shall refuse to take a post letter bag delivered or tendered to him by an officer of the Post Office for conveyance, shall forfeit two hundred pounds; and every master of a vessel who shall open a sealed letter bag with which he shall be intrusted for conveyance, shall forfeit two hundred pounds; and every master of a vessel who shall take out of a letter bag with which he shall have been intrusted for conveyance a letter or any other thing, shall forfeit two hundred pounds; and every master of a vessel who shall not duly deliver a letter bag with the contents at the Post Office on his arrival in port, without wilful or unavoidable delay after his arrival, shall forfeit two hundred pounds; and every person to whom letters may have been intrusted by the master of a vessel to bring on shore, who shall break the seal, or in any manner wilfully open the same, shall forfeit twenty pounds; and every master of a vessel who shall refuse or wilfully neglect to make the declaration of having delivered his ship's letters to the Post Office, as required by an Act of the present session intituled "An Act for the regulation of the duties of postage," shall forfeit fifty pounds; and every collector, comptroller, or officer of the customs who by the said Act is required to prohibit any vessel reporting until the requisites of such Act shall have been complied with, who shall permit such vessel to report before the requisites of such Act shall have been complied with, shall forfeit fifty pounds; and every master of a vessel (not having been able to send his letters ashore previous to his arrival at the port where the vessel is to report) who shall break bulk or make entry before all letters on board shall be sent to the Post Office, shall forfeit twenty pounds; . . . . . .

S. 6 *in part rep.* 53 & 54 *Vict. c.* 51 (*S.L.R.*), *and* 59 & 60 *Vict. c.* 19.

7. Penalty on persons employed in conveying or delivering Letter Bags, &c., for Carelessness, permitting others to travel with the Mails, Negligence, or Misconduct.—[*Recital*] Every person employed to convey or deliver a post letter bag or a post letter who shall, whilst so employed, or whilst the same shall be in his custody, care, or possession, leave a post letter bag or a post letter, or suffer any person, not being the guard or person employed for that purpose, to ride in the place appointed for the guard in or upon any carriage used for the conveyance of a post letter bag or post letter, or to ride in or upon a carriage so used and not licensed to carry passengers or upon a horse used for the conveyance on horseback of a post letter bag or a post letter, or if any such person shall be guilty of any act of drunkenness, or of carelessness, negligence, or other misconduct, whereby the safety of a post letter bag or a post letter shall be endangered, or who shall collect or receive, or convey or deliver, a letter otherwise than in the ordinary course of the post, or who shall give any false information of an assault or attempt at robbery upon him, or who shall loiter on the road or passage, or wilfully mis-spend his time so as to retard or delay the progress or arrival of a post letter bag or a post letter, or who shall not use due and proper care and diligence safely to convey a post letter bag or a post letter at the rate of speed appointed by and according to the regulations of the Post Office for the time being, being thereof convicted, shall forfeit twenty pounds.

8. No Hackney Carriage to stand or ply for Hire opposite the General Post Office in London or Dublin—Definition of Hackney Carriage within the meaning of this Act, &c.—Penalty on Hawkers, Newsvenders, &c. stopping or loitering on the Pavement opposite.—. . . No hackney carriage shall stand or ply for hire opposite the General Post Office in Saint Martin's-le-Grand, London, or the General Post Office in Sackville Street, Dublin, or any part thereof, respectively; and every driver, or any person having the management of any hackney carriage, who shall permit the same to stand or ply for hire opposite either of the said Post Offices, shall forfeit for every such offence five pounds; and for the purposes of this provision every

carriage with two or more wheels, whatever may be the form or construction of such carriage, or the number of persons which the same shall be calculated to convey, or the number of horses by which the same shall be drawn, shall be a hackney carriage within the meaning of this Act, and in all proceedings at law or otherwise, and upon all occasions, whatsoever, it shall be sufficient to describe it by the term hackney carriage; and every hawker, newsvender, or idle or disorderly person, who shall stop or loiter on the flagway or pavement opposite the General Post Office in Saint-Martin's-le-Grand, London, or in Sackville Street, Dublin, or any part thereof respectively, shall forfeit for every such offence five pounds.

S. 8 *in part rep.* 53 & 54 *Vict. c.* 51 (*S.L.R.*).

9. Penalty on Collectors of Tolls, Keepers of Gates, or Ferrymen, &c. demanding Toll on the Mail, or stopping the Mail.—Every toll collector or receiver, or other person employed to receive the tolls or rates at a turnpike gate or bar erected upon a highway, bridge, or post road, and every person who shall have the care of a gate of a walled town, or the custody of the keys of such gate, who shall demand toll for any person or horse or carriage going for or conveying or employed to go for or carry a mail, or who shall not permit the mail to pass without delay, or who shall wilfully delay or obstruct the mail at or in passing a turnpike gate or bar, or a gate of a walled town, shall for every such offence forfeit five pounds; and every ferryman or other person employed to receive the tolls or rates at a ferry, who shall demand any such toll for any such person, horse, or carriage, or who shall not, within the space of fifteen minutes after demand made, convey the mail (if it be possible or safe to do so) across such ferry to the usual landing place, shall for every such offence forfeit five pounds.

[*S.* **10** *rep.* 51 & 52 *Vict. c.* 57 (*S.L.R.*). *S.* **11** *rep.* 54 & 55 *Vict. c.* 67 (*S.L.R.*).]

12. Recovery of Penalties.—All pecuniary penalties imposed by the Post Office Acts may be sued for and recovered, with full costs of suit, by any person who shall inform and sue for the same, in any of her Majesty's courts of record at Westminster for any offence committed in England, Wales, or Berwick-upon-Tweed, and in her Majesty's Court of Session in Scotland for any offence committed in Scotland, and in any of her Majesty's courts of record in Dublin for any offence committed in Ireland; and the proceeding may be either by action or by information; and where the offence shall be committed in the British Isles, or in any other parts of Her Majesty's dominions, such penalties may be recovered in any of the royal or superior courts of such isles, or other parts of her Majesty's dominions, by all the proceedings, ways, and means by which penalties are there recoverable.

13. Justice may try Offences where Penalty does not exceed L.20—Appeal.—Any justice of the peace having jurisdiction where the offence shall be committed may hear and determine any offence against the Post Office Acts which may subject the offender to a pecuniary penalty not exceeding twenty pounds; . . . and if the person convicted shall find himself aggrieved by the judgment of any such justice, he may appeal against the same to the justice of the peace at the general or quarter sessions of the peace. . . . . .

S. 13 *in part rep.* 47 & 48 *Vict. c.* 76, *s.* 21

[*Ss.* **14–17** *rep.* 47 & 48 *Vict. c.* 76, *s.* 21. *S.* **18** *Rep.* 54 & 55 *Vict. c.* 67 (*S.L.R.*). *Ss.* **19–22** *rep.* 47 & 48 *Vict. c.* 76, *s.* 21.]

23. Postmaster-General may compound Actions, &c.—The Postmaster-General may compromise and compound any action, suit, bill, plaint, or information which shall at any time hereafter be commenced by his authority or under his control against any person for recovering penalties incurred under the Post Office Acts, on such terms and conditions as the Postmaster-General shall in his absolute discretion think proper, with full power for him, or any of his officers or agents by him thereunto authorized, to accept the penalties so incurred or alleged to be incurred, or any part thereof, without action, suit, or information brought or commenced for recovery thereof.

24. Penalties to be sued for within a Year.—All penalties incurred by any person for offences against the Post Office Acts shall be sued for within the space of one year next after the penalty shall be incurred.

25. Opening or delaying Post Letters by Officers of Post Office, a misdemeanor, &c.—Exceptions.—Every person employed by or under the Post Office who shall contrary to his duty open or procure or suffer to be opened a post letter, or shall wilfully detain or delay, or procure or suffer to be detained or delayed a post letter, shall in England and Ireland be guilty of a misdemeanor, and in Scotland of a crime and offence, and being convicted thereof shall suffer such punishment by fine or imprisonment, or by both, as to the court shall seem meet: Provided always, that nothing herein contained shall extend to the opening or detaining or delaying of a post letter returned for want of a true direction, or of a post letter returned by reason that the person to whom the same shall be directed is dead or cannot be found, or shall have refused the same, or shall have refused or neglected to pay the postage thereof; nor to the opening or detaining or delaying of a post letter in obedience to an express warrant in writing under the hand (in Great Britain) of one of the principal secretaries of state, and in Ireland under the hand and seal of the lord lieutenant of Ireland.

26. Embezzlement, &c. of any Letter or Packet by Officers of Post Office, Felony, &c.—Every person employed under the Post Office who shall steal, or shall for any purpose whatever embezzle, secrete, or destroy, a post letter, shall in England and Ireland be guilty of felony, and in Scotland of a high crime and offence, and shall, at the discretion of the court, either be transported beyond the seas for the term of seven years, or be imprisoned for any term not exceeding three years; and if any such post letter so stolen or embezzled, secreted, or destroyed, shall contain therein any chattel or money whatsoever, or any valuable security, every such offender shall be transported beyond the seas for life.

27. Stealing Money, &c. from or out of Letters, Felony, &c.—Every person who shall steal from or out of a post letter any chattel or money or valuable security, shall in England and Ireland be guilty of felony, and in Scotland of a high crime and offence, and shall be transported beyond the seas for life.

28. Stealing Post Letter Bags or Post Letters from Post Office or Mail, Felony, &c.—Every person who shall steal a post letter bag, or a post letter from a post letter bag, or shall steal a post letter from a post office, or from an officer of the Post Office or from a mail, or shall stop a mail with intent to rob or search the same, shall in England and Ireland be guilty of felony, and in Scotland of a high crime and offence, and shall be transported beyond the seas for life.

29. Stealing Post Letter Bags, &c. sent by Post Office Packet, Felony, &c.—Every person who shall steal or unlawfully take away a post letter bag sent by a Post Office packet, or who shall steal or unlawfully take a letter out of any such bag, or shall unlawfully open any such bag, shall in England and Ireland be guilty of felony, and in Scotland of a high crime and offence, and shall be transported beyond the seas for any term not exceeding fourteen years.

30. Receivers of Property sent by the Post and stolen or embezzled, guilty of Felony, &c.— . . . Every person who shall receive any post letter or post letter bag, or any chattel or money or valuable security, the stealing or taking or embezzling or secreting whereof shall amount to a felony under the Post Office Acts, knowing the same to have been feloniously stolen, taken, embezzled, or secreted, and to have been sent or to have been intended to be sent by the post, shall in England and Ireland be guilty of felony, and in Scotland of a high crime and offence, and may be indicted and convicted either as an accessory after the fact or for a substantive felony, and in the latter case, whether the principal felon shall or shall not have been previously convicted, or shall or shall not be amenable to justice; and every such receiver, howsoever convicted, shall be liable to be transported beyond the seas for life.

S. 30 *in part rep.* 53 & 54 *Vict. c.* 51 (*S.L.R.*).

31. Fraudulently retaining or wilfully secreting, after delivery thereof by mistake, &c. any Letter or Packet, a misdemeanor, &c.—[*Recital*] Every person who shall fraudulently retain, or shall wilfully secrete or keep or detain, or, being required to deliver up by an officer of the Post Office, shall neglect or refuse to deliver up a post letter which ought to have been delivered to any other person, or a post letter bag or post letter which shall have been sent, whether the same shall have been found by the person secreting, keeping, or detaining, or neglecting or refusing to deliver up the same, or by any other person, shall in England and Ireland be guilty of a mis-

demeanor, and in Scotland of a crime and offence, and being convicted thereof shall be liable to be punished by fine and imprisonment.

[*S.* **32** *rep.* 47 *&* 48 *Vict. c.* 76, *s.* 21. *Ss.* **33–35** *rep.* 54 *&* 55 *Vict. c.* 67 (*S.L.R.*).]

36. Punishment for endeavouring to procure the commission of any Felony or misdemeanor under Post Office Acts.—Every person who shall solicit or endeavour to procure any other person to commit a felony or misdemeanor punishable by the Post Office Acts, shall in England and Ireland be guilty of a misdemeanor, and in Scotland of a crime and offence, and being thereof convicted shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years.

37. Venue—Accessories to Felonies and Abettors of misdemeanors, &c. may be punished as Principals.— . . . The offence of every offender against the Post Office Acts may be dealt with, and indicted and tried and punished, and laid and charged to have been committed, in England and Ireland, either in the county or place where the offence shall be committed, or in any county or place in which he shall be apprehended or be in custody, as if his offence had been actually committed in that county or place, and, if committed in Scotland, either in the High Court of Justiciary at Edinburgh or in the circuit court of Justiciary to be holden by the lords commissioners of Justiciary within the district where such offence shall be committed, or in any county or place within which such offender shall be apprehended or be in custody, as if his offence had been actually committed there; and where an offence shall be committed in or upon or in respect of a mail, or upon a person engaged in the conveyance or delivery of a post letter bag or post letter, or in respect of a post letter bag or post letter, or a chattel or money or valuable security sent by the post, such offence may be dealt with and inquired of, and tried and punished, and laid and charged to have been committed, as well in any county or place in which the offender shall be apprehended or be in custody, as also in any county or place through any part whereof the mail, or the person, or the post letter bag, or the post letter, or the chattel, or the money, or the valuable security sent by the post, in respect of which the offence shall have been committed, shall have passed in due course of conveyance or delivery by the post, in the same manner as if it had been actually committed in such county or place; and in all cases where the side or the centre or other part of a highway, or the side, the bank, the centre, or other part of a river, or canal or navigation, shall constitute the boundary of two counties, such offence may be dealt with and inquired of, and tried and punished, and laid and charged to have been committed, in either of the said counties through which or adjoining to which or by the boundary of any part of which the mail or person shall have passed in due course of conveyance or delivery by the post, in the same manner as if it had actually been committed in such county or place; and every accessory before or after the fact to any such offence, if the same be a felony or a high crime, and every person aiding or abetting or councilling or procuring the commission of any such offence, if the same be a misdemeanor, may be dealt with, indicted, tried, and punished, as if he were a principal, and his offence laid and charged to have been committed in any county or place in which the principal offender may be tried.

S. 37 *in part rep.* 53 *&* 54 *Vict. c.* 51 (*S.L.R.*).

[*S.* **38** *rep.* 53 *&* 54 *Vict. c.* 51 (*S.L.R.*).]

39. Punishment of Offences committed within the Jurisdiction of the Admiralty.—Where an offence punishable under the Post Office Acts shall be committed within the jurisdiction of the Admiralty, the same shall be dealt with and inquired of and tried and determined in the same manner as any other offence committed within that jurisdiction.

40. In Indictments for Offences as to Post Letter Bags, Letters, and Articles sent by the Post, the Property may be laid in the Postmaster General, &c.—Statement of Employment in Indictments against Officers of Post Office.—In every case where an offence shall be committed in respect of a post letter bag or a post letter, or a chattel, money, or a valuable security sent by the post, it shall be lawful to lay in the indictment or criminal letters to be preferred against the offender the property of the post letter bag or of the post letter, or chattel or money or the valuable security sent by the post, in the postmaster general; and it shall not be necessary in the indict-

ment or criminal letters to allege or to prove upon the trial or otherwise that the post letter bag or any such post letter or valuable security was of any value; and in any indictment or in any criminal letters to be preferred against any person employed under the Post Office for any offence committed against the Post Office Acts it shall be lawful to state and allege that such offender was employed under the Post Office of the United Kingdom at the time of the committing of such offence, without stating further the nature or particulars of his employment.

41. Duration of Punishments.—Every person convicted of any offence for which the punishment of transportation for life is herein awarded, shall be liable to be transported beyond the seas for life or for any term . . . and every person convicted of any offence punishable according to the Post Office Acts by transportation for fourteen years shall be liable to be transported for any term not exceeding fourteen years . . . . . .

S. 41 *in part rep.* 47 & 48 *Vict. c.* 76.

42. Power to award Hard Labour and Solitary Confinement under this Act. —Where a person shall be convicted of an offence punishable under the Post Office Acts for which imprisonment may be awarded, the court may sentence the offender to be imprisoned, with or without hard labour, in the common gaol or house of correction . . . . . .

S. 42 *in part rep.* 47 & 48 *Vict. c.* 76.

43. Recovery of sums not exceeding L.20 due for Postage in the United Kingdom or elsewhere in her Majesty's Dominions—Recovery in Ireland of sums not exceeding L.50 due for Postage.—So often as any sum or sums of money not exceeding twenty pounds shall be due for postage from any person within the United Kingdom or other her Majesty's dominions, or which shall be due for postage from any deputy, agent, or letter carrier, or any other person employed in receiving or collecting the postage of letters or any of the Post Office revenue, or from the sureties of any such last-mentioned person, a complaint may be made to one or more of her Majesty's justices acting for the place (whether county, riding, division, city, town, or other place), and thereupon he shall summon the party complained of and the witnesses on either side, and shall examine into the matter of fact; . . . and, in addition to the above proceedings, if the postage due from any officer of the Post Office, surety, or any other person in Ireland shall not exceed fifty pounds, the same may be recovered with full costs in a summary way by process or civil bill in the court of the district where the person sued shall reside, which has jurisdiction to try matters on civil bill; but no decree shall be made thereon unless process or civil bill shall have been served on the person sued eight clear days at least before the first day of the quarter sessions at which it is to be tried; and if the person sued shall appeal from the decree made thereon against him, and on the hearing of the appeal the decree shall be affirmed, he shall pay to Her Majesty[1] double the costs of the original decree, and the affirmance thereof shall be conclusive on all the parties therein.

[1] *See as to double costs,* 5 & 6 *Vict. c.* 97, *s.* 2.

S. 43 *in part rep.* 47 & 48 *Vict. c.* 76.

44. Recovery of Duties of Postage. All duties of postage granted by any of the Post Office Acts, and charged by virtue thereof, may be sued for and recovered by suit, action, or information in any of her Majesty's courts of record, and by all such ways and means and in such manner and form as any other duties granted to her Majesty by any Act or Acts relating to her Majesty's revenue are recoverable by law, as well as by the particular ways and means provided by this Act; and in all actions, bills, plaints, informations, and proceedings to be commenced, prosecuted, entered, or filed in the name or on behalf of her Majesty for the recovery of any such duties, her Majesty may have and recover such duties with full costs of suit.

[*S.* **45** *rep.* 54 & 55 *Vict. c.* 67 (*S.L.R.*). *S.* **46** *rep.* 56 & 57 *Vict. c.* 61.]

47. Interpretation of terms in Post Office Acts—"British Letter"—"British Newspapers"—"British Postage"—"Colonial Letter"—"Colonial Newspapers"—"Convention Posts"—"Double Letter"—"Double Postage"—"East Indies"—

"Express"—"Foreign Country"—"Foreign Letter"—"Foreign Newspapers"—"Foreign Postage"—"Franking Officer"—"Her Majesty's Colonies"—"Inland "Postage"—"Letter"—"Packet"—"Mail"—"Mail Bag"—"Master of a Vessel"—"Officer of Post Office"—"Packet Postage"—"Packet Letter"—"Penalty"—"Persons employed by the Post Office"—"Packet Boats"—"Post Office "Packets"—"Postage"—"Post Town"—"Post Letter Bag"—"Post Office Acts"—"Post Office Laws"—"Ships"—"Single Postage"—"Single Letter"—"Sea "Postage"—"Ship Letter"—"Treble Letter"—"Treble Postage"—"Treble the "Duty of Postage"—"United Kingdom"—"Valuable Security"—"Vessel"—"Between"—Number and Gender.—And for the interpretation of the Post Office laws, be it enacted that the following terms and expressions shall have the several interpretations herein-after respectively set forth, unless such interpretations are repugnant to the subject or inconsistent with the context of the provisions in which they may be found; (that is to say), the term "British letter" shall mean a letter transmitted within the United Kingdom; and the term "British newspapers" shall mean newspapers printed and published in the United Kingdom liable to the stamp duty and duly stamped; and the term "British postage" shall mean the duty chargeable on letters transmitted by post from place to place within the United Kingdom, or, if transmitted to or from the United Kingdom, chargeable for the distance which they shall be transmitted within the United Kingdom, and including also the packet postage, if any; and the term "colonial "letter" shall mean a letter transmitted between any of her Majesty's colonies and the United Kingdom; and the term "colonial newspapers" shall mean newspapers printed and published in any of her Majesty's dominions out of the United Kingdom; and the term "convention posts" shall mean posts established by the postmaster general under agreements with the inhabitants of any places; and the term "double letter" shall mean a letter having one inclosure; and the term "double postage" shall mean twice the amount of single postage; and the term "East Indies" shall mean every port and place within the territorial acquisitions now vested in the East India company in trust for her Majesty, and every other port or place within the limits of the charter of the said company (China excepted), and shall also include the Cape of Good Hope; and the term "express" shall mean every kind of conveyance employed to carry letters on behalf of the Post Office other than the usual mail; and the term "foreign country" shall mean any country, state, or kingdom not included in the dominions of her Majesty; and the term "foreign letter" shall mean a letter transmitted to or from a foreign country; and the term "foreign newspapers" shall mean newspapers printed and published in a foreign country in the language of that country; and the term "foreign postage" shall mean the duty charged for the conveyance of letters within such foreign country; and the term "franking officer" shall mean the person appointed to frank the official correspondence of offices to which the privilege of franking is granted; . . . and the term "her "Majesty's colonies" shall include every port and place within the territorial acquisitions now vested in the East India company in trust for her Majesty, the Cape of Good Hope, the islands of Saint Helena, Guernsey, Jersey, and Isle of Man (unless any such place be expressly excepted), as well as her Majesty's other colonies and possessions beyond seas; and the term "inland postage" shall mean the duty charged for the transmission of post letters within the limits of the United Kingdom or within the limits of any colony; and the term "letter" shall include packet, and the term "packet" shall include letter; . . . and the term "mail" shall include every conveyance by which post letters are carried, whether it be a coach or cart or horse, or any other conveyance, and also a person employed in conveying or delivering post letters, and also every vessel which is included in the term packet boat; and the term "mail bag" shall mean a mail of letters, or a box, or a parcel, or any other envelope in which post letters are conveyed, whether it does or does not contain post letters; and the term "master of a vessel" shall include any person in charge of a vessel, whether commander, mate, or other person, and whether the vessel be a ship of war or other vessel; and the expression "officer of the "Post Office" shall include the postmaster-general, and every deputy postmaster, agent, officer, clerk, letter carrier, guard, post boy, rider, or any other person employed in any business of the Post Office, whether employed by the postmaster general or by any person under him or on behalf of the Post Office; and the term "packet postage" shall mean the postage chargeable for the transmission of letters by packet boats between Great Britain and Ireland, or between the United Kingdom and any of her Majesty's

colonies, or between the United Kingdom and foreign countries; and the term "packet "letter" shall mean a letter transmitted by a packet boat; and the term "penalty" shall include every pecuniary penalty or forfeiture; and the expression "persons employed by "or under the Post Office" shall include every person employed in any business of the Post Office according to the interpretation given to officer of the Post Office; and the terms "packet boats" and "Post Office packets" shall include vessels employed by or under the Post Office or the Admiralty for the transmission of post letters, and also ships or vessels (though not regularly employed as packet boats) for the conveyance of post letters under contract, and also a ship of war or other vessel in the service of her Majesty, in respect of letters conveyed by it; and the term "postage" shall mean the duty chargeable for the transmission of post letters; and the term "post town" shall mean a town where a post office is established (not being a penny or twopenny or convention post office); and the term "post letter bag" shall include a mail bag or box, or packet or parcel, or other envelope or covering in which post letters are conveyed, whether it does or does not contain post letters; . . . and the terms "Post Office "Acts" and "Post Office laws" shall mean all Acts relating to the management of the post, or to the establishment of the Post Office, or to postage duties, from time to time in force; and the term "ships" shall include vessels other than packet boats; and the term "single postage" shall mean the postage chargeable for a single letter; and the term "single letter" shall mean a letter consisting of one sheet or piece of paper, and under the weight of an ounce; and the term "sea postage" shall mean the duty chargeable for the conveyance of letters by sea by vessels not packet boats; and the term "ship letter" shall mean a letter transmitted inwards or outwards over seas by a vessel not being a packet boat; and the term "treble letter" shall mean a letter consisting of more than two sheets or pieces of paper, whatever the number, under the weight of an ounce; and the term "treble postage" shall mean three times the amount of single postage; and the term "treble the duty of postage" shall mean three times the amount of the postage to which the letter to be charged would otherwise have been liable according to the rates of postage chargeable on letters; and the term "United Kingdom" shall mean the United Kingdom of Great Britain and Ireland; and the term "valuable "security" shall include the whole or any part of any tally, order, or other security whatsoever, entitling or evidencing the title of any person or body corporate to any share or interest in any public stock or fund, whether of this kingdom or of Great Britain or of Ireland, or of any foreign state, or in any fund of any body corporate, company, or society, or to any deposit in any savings bank, or the whole or any part of any debenture, deed, bond, bill, note, warrant, or order or other security whatsoever for money or for payment of money, whether of this kingdom or of any foreign state, or of any warrant or order for the delivery or transfer of any goods or valuable thing; and the term "vessel" shall include any ship or other vessel not a Post Office packet; and whenever the term "between" is used in reference to the transmission of letters, newspapers, parliamentary proceedings, or other things between one place and another, it shall apply equally to the transmission from either place to the other; and every officer mentioned shall mean the person for the time being executing the functions of that officer; and whenever in this Act or the schedules thereto, with reference to any person or matter or thing, or to any persons, matters, or things, the singular or plural number or the masculine gender only is expressed, such expression shall be understood to include several persons or matters or things as well as one person or matter or thing, and one person, matter, or thing as well as several persons or matters or things, females as well as males, bodies politic or corporate as well as individuals, unless it be otherwise specially provided, or the subject or context be repugnant to such construction.

S. 47 *in part rep.* 47 & 48 *Vict. c.* 76, *and* 53 & 54 *Vict. c.* 51 (*S.L.R.*).

48. Extent of Act.—This Act shall extend to and be in force in the islands of Man, Jersey, Guernsey, Sark, and Alderney, and in all her Majesty's colonies and dominions where any post or post communication is established by or under the postmaster general of the United Kingdom of Great Britain and Ireland.

[*S.* **49** *rep.* 37 & 38 *Vict. c.* 35 (*S.L.R.*). *Sched. rep.* 54 & 55 *Vict. c.* 67 (*S.L.R.*).]

CHAPTER XLI.

THE SMALL DEBT (SCOTLAND) ACT, 1837 (*Short Titles Act*, 1896).

AN ACT for the more effectual Recovery of Small Debts in the Sheriff Courts, and for regulating the Establishment of Circuit Courts for the Trial of Small Debt Causes by the Sheriffs, in Scotland.[1] [12th July 1837.]

[1] *This Act is rep.* 16 & 17 *Vict. c.* 80, *s.* 51, *in so far only as may be necessary to give effect to the provisions of that Act.*

[*Preamble recites* 10 *Geo.* 4, *c.* 55.]

[*S.* 1 *rep.* 37 & 38 *Vict. c.* 35 (*S.L.R.*).]

2. SHERIFFS MAY HEAR AND DETERMINE IN A SUMMARY WAY CAUSES FOR SUMS NOT EXCEEDING L.8, 6s. 8D. STERLING.—It shall be lawful for any sheriff in Scotland within his county to hear, try, and determine in a summary way, as more particularly herein-after mentioned, all civil causes and . . . all maritime civil causes and proceedings, that may be competently brought before him, wherein the debt, demand, or penalty in question shall not exceed the value of eight pounds six shillings and eight-pence sterling, exclusive of expences and fees of extract: Provided always, that the pursuer . . . shall in all cases be held to have passed from and abandoned any remaining portion of any debt, demand, or penalty beyond the sum actually concluded for in any such cause . . . . .

S. 2 *in part rep.* 54 & 55 *Vict. c.* 67 (*S.L.R.*).

3. MODE OF PROCEDURE.—All such causes . . . which the pursuers . . . thereof shall choose to have heard and determined according to the summary mode hereby provided, shall proceed, except as herein-after provided, upon summons or complaint, agreeably to the form in schedule (A.) annexed to this Act, and containing warrant to arrest upon the depending action, stating shortly the origin of debt or ground of action, and concluding against the defender; which summons or complaint, being signed by the sheriff clerk, shall be a sufficient warrant and authority to any sheriff's officer for summoning the defender to appear and answer at the time and place mentioned in such summons and complaint, not being sooner than upon the sixth day after such citation, and the same, or the copy thereof, served on the defender, shall also be a sufficient warrant for summoning such witnesses and havers as either party shall require; and a copy of the said summons or complaint, with the citation annexed, and also a copy of the account, if any, shall be served at the same time by the sheriff's officer on the defender personally or at his dwelling place, or in case of a company at their ordinary place of business; and the officer summoning parties, witnesses, or havers, shall in all cases under this Act return an execution of citation signed by him, or shall appear and give evidence on oath of such citation having been duly made; and all such citations given by an officer alone without witnesses, and executions thereof subscribed by such officer, shall be good and effectual to all intents and purposes.

S. 3 *in part rep.* 54 & 55 *Vict. c.* 67 (*S.L.R.*).

4. CAUSES FOR SUMS NOT EXCEEDING L.8, 6s. 8D. OR OF HIGHER VALUE THAN L.8, 6s. 8D. BUT REDUCED TO L.8, 6s. 8D. MAY BE REMITTED TO THE SMALL DEBT COURT ROLL.—In any cause before the sheriff's ordinary court, in which the debt, demand, or penalty in question shall not exceed the value of eight pounds six shillings and eight-pence sterling, or shall have exceeded the value of eight pounds six shillings and eight-pence sterling, but from interim decree or otherwise the value shall, previous to the closing of the record, be reduced so as not to exceed eight pounds six shillings and eight-pence sterling, exclusive of expences and fees of extract, it shall be competent to the sheriff, if he shall think proper, and with the consent of the pursuer, to remit such cause to such of his small debt court rolls as may be proper, either of his own motion or upon the motion of any party in the cause: Provided that if the pursuer shall not consent, the provisions of this Act as to the fees or expences to be allowed in causes below the value of eight pounds six shillings and eight-pence brought not according to the summary form herein provided shall be applied to such causes subsequent to the proposition for remit, if the sheriff shall think proper so to modify the expences: Provided also, that when a case

has been remitted by the sheriff substitute from the ordinary court to the small debt court, an appeal shall be competent to the sheriff against such remit, but no reclaiming petition shall be allowed against such remit.

5. Recovery of Rents not exceeding L.8, 6s. 8d.—It shall be competent for the sheriff in the small debt courts established or to be established under this Act to hear, try, and determine, in the summary form hereby provided, applications by landlords or others having right to the rents and hypothec for sequestration and sale of a tenant's effects for recovery of rent, provided the rent or balance of rent claimed shall not exceed eight pounds six shillings and eight-pence sterling; and the summons and warrant of sequestration and procedure shall be agreeable to the forms directed in schedule (B.) annexed to this Act; and the officer, when he executes the warrant, shall get the effects appraised by two persons, who may also be witnesses to the sequestration; and an inventory or list of the effects, with the appraisement, shall be given to or left for the tenant, who shall be cited in manner and to the effect aforesaid; and an execution of the citation and sequestration, with the appraisement of the effects, shall be returned to the clerk within three days; and on hearing the application in manner provided by this Act relative to other causes the sheriff shall dispose of the cause as shall be just, and may either recall the sequestration in whole or in part, or pronounce decree for the rent found due, and grant warrant for the sale of the sequestrated effects on the premises or at such other place and on such notice as he shall by general or special regulation direct, and failing such directions the sale shall be carried into effect in the manner herein-after directed for the sale of pointed and sequestrated effects; and if after sequestration the tenant shall pay the rent claimed, with the expences, to the pursuers, or consign the rent, with two pounds sterling to cover expences, in the hands of the clerk of court, the sequestration shall ipso facto be recalled, in case of payment, on the clerk writing and signing on the back of the summons or warrant the words "payment made," which, on evidence being produced to him of payment of the rents claimed, with expences, he is hereby required to do, and, in case of consignation, after the clerk shall in like manner have written and signed the words "consignation made," on the same being intimated by an officer of court to the sequestrating creditor.

6. Arrestment of Goods of Defender.—The pursuer of any civil cause, including maritime civil causes and proceedings, may use arrestment on the dependence of the action of any money, goods, or effects to an amount or extent not exceeding the value of eight pounds six shillings and eight-pence sterling, owing or belonging to such defender, in the hands of any third party, either within the county in which such warrant shall have been issued or in any other county or counties: Provided always, that before using such warrant in any other county it shall be presented to and indorsed by the sheriff clerk of such other county, who is hereby required to make such indorsement on payment of the fee herein-after mentioned: Provided also, that any arrestment laid on under the authority of this Act shall, on the expiry of three months from the date thereof, cease and determine, without the necessity of a decree or warrant of loosing the same, unless such arrestment shall be renewed by a special warrant or order, duly intimated to the arrestee, in which case it shall subsist and be in force for the like time and under the like conditions as under the original warrant, or unless an action of forthcoming or multiplepoinding, in manner herein-after provided, shall have been raised before the expiry of the said period of three months, in which case the arrestment shall subsist and be in force until the termination of such action of forthcoming or multiplepoinding.

7. Wages of Labourers, &c. not to be liable to arrestment.—Wages of labourers and manufacturers shall, so far as necessary for their subsistence, be deemed alimentary, and in like manner as servants fees and other alimentary funds, not liable to arrestment.

8. Proceedings for loosing Arrestments.—When any arrestment shall have been used on the dependence of any action, it shall be competent to the defender to have such arrestment loosed, on lodging with the sheriff clerk of the county in which such arrestment shall have been used a bond or enactment of caution, by one or more good and sufficient cautioners to the satisfaction of such sheriff clerk, agreeably to the form in schedule (C.) annexed to this Act, or on consigning in the hands of such sheriff clerk the amount of the debt or demand, with five shillings for expences in cases of actions for sums below five pounds, and ten shillings in cases of higher amount, or on pro-

ducing to such sheriff clerk evidence of the defender having obtained decree of absolvitor in the action, or of his having paid the sums decerned for, or of his having consigned in the hands of the clerk of the court in which the action depended the sums decerned for or the amount of the debt or demand and expences as aforesaid, when no decree has yet been pronounced; and a certificate in the form in the said schedule given by the sheriff clerk of the county in which such arrestment shall have been used of a bond or enactment of caution to the extent of the debt or demand and expences having been lodged with him, or of consignation, as above provided, having been made in his hands, shall operate as a warrant for loosing any arrestment used either in that or in any other county on the dependence of the same action, without any other caution being found or any other consignation being made by the defender.

9. Proceedings in Actions of Forthcoming.—Any person entitled to pursue an action of forthcoming where the sum or demand sought to be recovered under the forthcoming shall not exceed the value of eight pounds six shillings and eight-pence sterling, exclusive of expences and fees of extract, who shall choose to have the same heard and determined according to the summary mode provided by this Act, shall proceed by summons or complaint agreeably to the form in schedule (D.) annexed to this Act, concluding for payment of the sum for which arrestment has been used, or for delivery of the goods and effects arrested, which summons or complaint, being signed by the sheriff clerk of the county in which the arrestee resides, shall be a sufficient warrant and authority to any sheriff's officer for summoning the arrestee and the common debtor to appear and answer at a sheriff court of the county in which the arrestee resides, the same not being sooner than the sixth day after the date of citation, and also for summoning witnesses and havers for all parties; and in the event of the common debtor not residing and not being found within the county in which such action of forthcoming shall be brought, he may be cited by any sheriff's officer in any other county on the said warrant, the same being first presented to and indorsed by the sheriff clerk of such other county, who is hereby required to indorse the same on payment of the fee herein-after mentioned, to appear at a sheriff court in the county in which the arrestee resides, the same not being sooner in such case than on the twelfth day after the date of citation: Provided always, that the arrestee and the common debtor shall be cited to appear on the same court day, and that a copy of the said summons or complaint, with the citation annexed thereto, shall be duly served by the officer, all in the same manner as herein-before provided in other causes and prosecutions under authority of this Act, but always allowing to a party cited to appear in the sheriff court of a different county from that in which the citation shall be given double the time required by this Act to be allowed to a party cited to appear in the sheriff court of the county within which the citation shall be given: Provided also, that the pursuer of such action of forthcoming shall not by such action be held to have restricted the amount of the debt due by the common debtor.

10. Proceedings on Summons of Multiplepoinding.—Where any person shall hold a fund or subject which shall not exceed the value of eight pounds six shillings and eightpence, which shall be claimed by more than one party under arrestments or otherwise, it shall be competent to raise a summons of multiplepoinding in the small debt court established or to be established under this Act, to the jurisdiction of which the holder of the fund or subject shall be amenable, which summons and procedure thereon shall be agreeable to the form in schedule (E.) annexed to this Act, and the claimants and common debtors, and also the holder of the fund or subject, if the process be raised in his name by any other party interested, shall be cited in manner directed to be followed in actions of forthcoming raised under this Act; and it shall be competent to the sheriff, when he shall see cause, to order such further intimation or publication of the multiplepoinding as he may think proper, by advertisement in any newspaper or otherwise; but no judgment preferring any party to the fund or subject in medio shall be pronounced at the first calling of the cause, or until due intimation has been given, such as may appear satisfactory to the sheriff, in order that all parties may have an opportunity of lodging their claims on the fund or subject in medio, and such claims shall be prepared agreeably to the form in schedule (E.); and the sheriff shall hear, try, and determine the cause as nearly as may be in the summary form provided by this Act.

11. Counter Claims.—Where any defender intends to plead any counter account or claim against the debt, demand, or penalty pursued for, the defendant shall serve a

copy of such counter account or claim by an officer on the pursuer in the form set forth in schedule (A.) hereunto annexed, or to the like effect, at least one free day before the day of appearance, otherwise the same shall not be heard or allowed to be pleaded, except with the pursuer's consent, but action shall be reserved for the same.

12. Proceedings for compelling attendance of Witnesses.—Every officer to whom any warrant as aforesaid for citing witnesses and havers shall be intrusted shall cite such witnesses or havers as any party shall require; and all such warrants shall have the same force and effect in any other county as in the county where they are originally issued, the same being first presented to and indorsed by the sheriff clerk of such other county, who is hereby required to indorse the same on payment of the fee herein-after mentioned; and if any witness or haver, duly cited on a citation of at least forty-eight hours, shall fail to appear, he shall forfeit and pay a penalty not exceeding forty shillings, unless a reasonable excuse be offered and sustained; and every such penalty shall be paid to the party citing the witness or haver . . . without prejudice always to letters of second diligence for compelling witnesses and havers to attend, as at present competent; and it shall be competent to the sheriff of any county where a witness or haver resides who has failed to comply with the citations originally issued, to grant letters of second diligence for compelling the attendance of such witnesses or havers; and it shall be no objection to any witness that such witness has appeared without citation or without having been regularly cited.

S. 12 *in part rep.* 54 *&* 55 *Vict. c.* 67 (*S.L.R.*).

13. Hearing and Judgment—Arrestment, Poinding, and Sale, &c.—When the parties shall appear, the sheriff shall hear them vivâ voce, and examine witnesses or havers upon oath, and may also examine the parties, and may put them or any of them upon oath, in case of oath in supplement being required or of a reference being made, and if he should see cause may remit to persons of skill to report, or to any person competent to take and report in writing the evidence of witnesses or havers who may be unable to attend upon special cause shown, and such cause shall in all cases be entered in the book of causes kept by the sheriff clerk, due notice of the examination being given to both parties, and thereupon the sheriff may pronounce judgment; and the decree, stating the amount of the expences (if any) found due to any party, (which may include personal charges, if the sheriff think fit,) and containing warrant for arrestment, and for poinding and imprisonment when competent, shall be annexed to the summons or complaint, and on the same paper with it, agreeably to the form in schedule (A.) annexed to this Act, or to the like effect; which decree and warrant, being signed by the clerk, shall be a sufficient authority for instant arrestment, and also for poinding and sale and imprisonment, where competent, after the elapse of ten free days from the date of the decree, if the party against whom it shall have been given was personally present when it was pronounced, but, if he was not so present, poinding and sale and imprisonment shall only proceed after a charge of ten free days, by serving a copy of the complaint and decree on the party personally or at his dwelling place; and if any decree shall not be enforced by poinding or imprisonment within a year from the date thereof or from a charge for payment given thereon, such decree shall not be enforced without a new charge duly given as aforesaid.

14. Procurators, &c. not to appear or plead, nor pleadings to be reduced to writing, without leave of Court.—No procurators, solicitors, nor any persons practising the law shall be allowed to appear or plead for any party without leave of the court upon special cause shown, and such leave and the cause thereof shall in all cases be entered in the book of causes kept by the sheriff clerk; nor shall any of the pleadings be reduced to writing or be entered upon any record, unless with leave of the court first had and obtained, in consequence of any difficulty in point of law or special circumstances of any particular case: Provided always, that when the sheriff shall order any such pleadings to be reduced to writing, every case in which such order shall be made shall thenceforth be conducted according to the ordinary forms and proceedings in civil causes . . and shall be disposed of in all respects as if this Act had not been passed.

S. 14 *in part rep.* 54 *&* 55 *Vict. c.* 67 (*S.L.R.*).

15. Parties not appearing or making sufficient excuse to be held confessed, &c.—Any defender who has been duly cited failing to appear personally, or by one of

his family, or by such person as the sheriff shall allow, such person not being an officer of court, shall be held confessed, and the other party shall obtain decree against him; and in like manner if the pursuer or prosecutor shall fail to appear personally, or by one of his family, or by such person as the sheriff shall allow, such person not being an officer of court, the defender shall obtain decree of absolvitor, unless in either case a sufficient excuse for delay shall be stated, on which account, or on account of the absence of witnesses, or any other good reason, it shall at all times be competent for the sheriff to adjourn any case to the next or any other court day, and to ordain the parties and witnesses then to attend.

16. Subsequent hearing of Cause, &c. in cases of Decree in Absence.—Where a decree has been pronounced in absence of a defender, it shall be competent for him, upon consigning the expences decerned for, and the further sum of ten shillings to meet further expences, in the hands of the clerk, at any time before a charge is given, or, in the event of a charge being given, before implement of the decree has followed thereon, provided in the latter case the period from the date of the charge does not exceed three months, to obtain from the clerk a warrant signed by him sisting execution till the next court day or to any subsequent court day to which the same may be adjourned, and containing authority for citing the other party and witnesses and havers for both parties; and the clerk shall be bound to certify to the sheriff on the next court day every such application for hearing and sist granted; and such warrant, being duly served upon the other party personally or at his dwelling place in the manner provided in other cases by this Act, shall be an authority for hearing the cause; and in like manner, where absolvitor has passed in absence of the pursuer or prosecutor, it shall be competent for him, at any time within one calendar month thereafter, upon consigning in the hands of the clerk the sum awarded by the sheriff in his decree of absolvitor as the expences for the defender and his witnesses, with the further sum of five shillings to meet further expences, to obtain a warrant, signed by the clerk, for citing the defender and witnesses for both parties, which warrant, being duly served upon the defender in the manner provided in other cases by this Act, shall be an authority for hearing the cause as hereby provided in the case of a hearing at the instance of the defender, the said sum of expences awarded by the sheriff and consigned as aforesaid being in every case paid over to the other party, unless the contrary shall be specially ordered by the court; and all such warrants for hearing shall be in force, and may be served by any sheriff officer in any county, without indorsation or other authority than this Act.

17. Book of Causes, &c. to be kept.—The sheriff clerk shall keep a book, wherein shall be entered all causes conducted under the authority of this Act, setting forth the names and designations of the parties, and whether present or absent at the calling of the cause, the nature and amount of the claim and date of giving it in, the mode of citation, the leave and cause of procurators appearance, the several deliverances or interlocutors, and the final decree, with the date thereof, which book shall be signed each court day by the sheriff; and the said entries by the clerk shall be according to the form in schedule (F.) annexed to this Act, or with such addition as the sheriff shall appoint; and the sheriff clerk shall also keep a book or books containing a register or registers of all indorsations of decrees and warrants issued in other counties and of all warrants for arrestment on the dependence, and of all loosings of arrestment, and of all reports of poindings or sequestrations and sales of goods and effects, which registers shall be open and patent at office hours to all concerned, without fee; and the sheriff clerk shall cause a copy of the roll of causes to be tried on each court day to be exhibited to the public on a patent part of the court house at least one hour before the time of meeting of such court, and which shall continue there during the time the court shall be sitting; and the sheriff clerk or an officer of court shall audibly call the causes in such roll in their order.

18. Power to direct payment of Sums found due by Instalments.—The sheriff may, if he think proper, direct the sum or sums found due to be paid by instalments weekly, monthly, or quarterly, according to the circumstances of the party found liable, and under such conditions or qualifications as he shall think fit to annex.

19. Decrees may be enforced in any other County.—Any decree obtained under this Act may be enforced where competent against the person or effects of any party in any other county as well as in the county where the decree is issued: Provided always, that such decree or an extract thereof shall be first produced to and indorsed

by the sheriff clerk of such other county, who is hereby required to make such indorsement on payment of the fee herein-after mentioned.

20. Appraisement and Sale of sequestrated or poinded Effects.—The sequestration or poinding and sale shall be carried into effect by the officer in a summary way, by getting the effects sequestrated or poinded duly appraised by two persons, who may also be witnesses to the sequestration or poinding, and leaving an inventory or list thereof for the party whose effects are sequestrated or poinded, and not sooner than forty-eight hours thereafter carrying such effects to the nearest town or village, or, in case the sequestration or poinding shall take place in a town or village, to the cross or most public place thereof, and selling the same to the highest bidder by public roup between the hours of eleven forenoon and three afternoon at the cross or such most public place, on previous notice of at least two hours by the crier, but reserving to the sheriff, by such general regulation, or special order in any particular case as he shall think fit, to appoint a different hour or place for the sale or a longer or different kind of notice to be given of the time of selling; and in sequestrations and poindings the overplus of the price, if there shall be any, after payment of the sums decerned for, and the expenses, if expenses are awarded, including what is allowed by this Act for sequestration or poinding and sale, shall be returned to the owner, or consigned with the sheriff clerk if the owner cannot be found; or if the effects are not sold, the same shall be delivered over at the appraised value, to the creditor to the amount of the sum decerned for and expenses, if awarded, and the allowances for sequestration or poinding and sale; and a report of the proceedings in the sequestration or poinding and sale and proceeds, or of the delivery of the effects, shall in every case be made by the officer to the sheriff clerk within eight days thereafter, agreeably to the form in schedule (G.) annexed to this Act, or to the like effect; and where the sheriff shall order a sale of goods or effects arrested, the same course of proceeding shall be adopted as is above directed in the case of poinding and sale; and no officer to whom the enforcement of decrees or warrants in cases falling under this Act may be committed, shall be liable to any penalty, fine, or punishment for selling goods or effects under authority of such decrees or warrants by public auction, although such officer may not be licensed as an auctioneer, any thing in any Act or Acts to the contrary notwithstanding; and if any person shall secrete or carry off or intromit with any poinded or sequestered effects in fraudem of the poinding creditors or of the landlord's hypothec, such person shall be liable to summary punishment by fine or imprisonment, as for contempt of court, either at the instance of the private party, with or without the concurrence of the procurator fiscal, or at the instance of the procurator fiscal, or ex proprio motu of the sheriff, besides being liable otherwise as accords of law.

21. One Witness sufficient.—In all charges and arrestments, and executions of charges and arrestments, under this Act, one witness shall be sufficient, any law or practice to the contrary heretofore notwithstanding.

22. Actions for Damages by Riot under 3 Geo. 4, c. 33, and for recovery of Assessments under 9 Geo. 4, c. 39, may be determined under this Act.—All actions of damages for compensation for loss or injury by the act or acts of any unlawful, riotous, or tumultuous assembly in Scotland, or of any person engaged in or making part thereof, authorized to be brought by an Act passed in the third year of the reign of his Majesty King George the Fourth, where the sum concluded for does not exceed eight pounds six shillings and eight-pence sterling, as also all actions for recovery of assessments by virtue of an Act passed in the ninth year of his said Majesty's reign, intituled "An Act for the preservation of the salmon fisheries in Scotland," may be heard and determined in the summary way provided by this Act, and this notwithstanding the amount of such assessments shall exceed eight pounds six shillings and eight-pence sterling.

23. Sheriffs to hold Circuit Courts for Small Debt causes.—[*Recital of* 20 *Geo.* 2, *c.* 43, *s.* 29, *and* 10 *Geo.* 4, *c.* 55] The several sheriffs of the several sheriffdoms in Scotland shall, in addition to their ordinary small debt courts, by themselves, or their substitutes, hold circuit courts for the purposes of this Act at such of the places within each sheriffdom set forth in the schedule (H.) annexed to this Act, and for such number of times within each place in each year, not exceeding the number of times mentioned in the said schedule (H.), as shall be directed by warrant under Her Majesty's sign manual, and to be published in the London Gazette, at such times as they shall deem

best and most convenient to fix for the general business of the county, if there shall be any cause at such places at such times to try, but as nearly as may be at equal intervals between each court, except as herein-after provided, and shall remain at each such place until the causes ready to be heard shall be disposed of; and each sheriff clerk, or a depute appointed by him, is hereby required to attend at such places and times within his sheriffdom, and to find the necessary accommodation for holding all such courts, on his own charges and expenses in respect of the fees allowed by this Act: Provided always that no sheriff clerk shall acquire a vested right to any increased amount of fees or emoluments to be drawn under this Act, or shall be entitled to compensation in consequence of being deprived of such increased amount of fees or emoluments or of any future regulation thereof by any Act to be hereafter passed.

24. Sheriff may change Places and Times of holding Circuit Courts.—The several sheriffs of the several sheriffdoms, with the consent and approbation of one of her Majesty's principal secretaries of state, may from time to time change the places or number of times at which such circuit courts shall be directed to be held as aforesaid, or discontinue the same or any of them in any sheriffdom in which such circuit courts or any of them may be found unnecessary or inexpedient, or direct any two of such courts, held in islands or other places where it may be deemed expedient, to be held at short intervals from each other, or direct circuit courts to be held at such places in any sheriffdom although not mentioned in the said schedule (H.) or in such additional places in counties mentioned in the said schedule, as may seem necessary and proper; and all such additional circuit courts shall be held in terms of the provisions and directions of this Act.

25. Sheriff Clerks to attend Courts in person or appoint Deputes.—The sheriff clerk of each sheriffdom shall attend personally or appoint a depute to act at each of the places at which courts may be directed to be held in terms of this Act; and such depute shall in the absence of the principal clerk attend at and during the holding of such circuit courts, and shall thereat perform all the duties by this Act required to be performed by the sheriff clerk; and if such depute shall not be resident in such place, the sheriff clerk may also appoint a proper person resident in such place or in its immediate vicinity to issue the summonses or complaints which may be applied for and issued under the provisions of this Act; and the principal clerk shall give or cause to be given due intimation of the name, description, and residence of each person so appointed depute clerk, and of the person appointed to issue summonses and complaints as aforesaid, by notice set forth in the schedule (I.) hereunto annexed, and which notice, being signed by the sheriff clerk, shall, without being stamped, be a sufficient commission to such sheriff clerk depute; and such notice or a copy thereof shall be affixed on or near the doors of the church of the parish within which such court is to be held, and also, if he shall see cause, by advertisement in the newspaper or newspapers of the greatest reputed circulation in the neighbourhood, and notice shall in like manner be given by the sheriff clerk, in the form of schedule (K.) hereunto annexed, of the times at which such circuit courts shall be fixed to be held: Provided always, that no person who shall act as depute clerk for the purposes of this Act, and for no other purposes, shall be thereby disqualified from acting as a procurator before any court, except the small debt court in which he shall act as aforesaid, or from being registered or from voting under any Act or Acts of Parliament relative to the election of members of Parliament or of magistrates of burghs.

26. Sheriff shall determine what Parishes shall be within the Jurisdiction of each Small Debt Court; and Actions shall be brought in the Court within the Jurisdiction of which the Defender resides, &c.—Each sheriff shall, three months before holding any circuit court in terms of this Act, by a minute entered in the sederunt book of his court and published in such manner as he may think proper, and of which a printed copy shall be publicly affixed at all times on the walls of every sheriff court room within his sheriffdom, apportion the parishes or parts of parishes which shall for the purposes of this Act be within the jurisdiction of any small debt court to be held within his sheriffdom, as aforesaid, and thereafter from time to time alter such apportionment as the circumstances may require, and such alteration shall be published as aforesaid for at least three months before the same shall take effect; and all causes shall be brought before the ordinary small debt court or any circuit small debt court within the jurisdiction of which the defender shall reside or to the jurisdiction of

which he shall be amenable: Provided always, that if there shall be more defenders than one in one cause of action who shall be amenable to the jurisdiction of different courts, or if from any other cause the sheriff shall be satisfied that such course shall be expedient for the ends of justice, it shall be competent to the sheriff, upon summary application in writing made by or for any pursuer lodged with the sheriff clerk, or upon verbal application made by or for any pursuer in open court, to order a summons or complaint to be issued, and the cause to be brought before his ordinary small debt court or before any of his circuit small debt courts, as shall appear most convenient; and such summons or complaint shall be issued accordingly on the sheriff writing and subscribing theron the name of the court before which the same is to be heard.

27. Sheriff may adjourn Causes to any of his other Small Debt Courts.—The sheriff may, where the ends of justice and the convenience of the parties require it, adjourn and remove the further hearing of or procedure in any sequestration, multiplepoinding, or any other cause, from his ordinary small debt court to any of his circuit small debt courts, and from any of his circuit small debt courts to his ordinary or any other circuit small debt court, or to any diet of his ordinary court, to be there dealt with according to the provisions of this Act, or to any other time or place specially appointed for the purpose; and such order of adjournment and removal shall be held due notice to the parties of such adjournment and removal being made, unless further notice shall be ordered.

28. Sheriff of Morayshire may hold Courts at Grantown, &c.—[*Recital*] In case it shall be directed by one of her Majesty's principal secretaries of state that a circuit court shall be established in terms of this Act for the upper district of Morayshire, it shall be competent to the sheriff of Morayshire or his substitutes to grant warrants and to hold courts for the trial of all causes competent under this Act, and to pronounce judgment therein, within the said village of Grantown, in the same way and to the same effect in all respects as if such courts were held and warrants were granted and judgments pronounced within the said county of Moray; and it shall also be competent to the sheriff clerk and officers of Morayshire to issue summonses and perform other duties authorised by this Act within the village of Grantown in like manner as within the county of Moray.

[*S.* **29** *rep.* 55 *&* 56 *Vict. c.* 19 (*S.L.R.*).]

30. Sheriff's Decrees not to be subject to review, &c. except as hereby provided.—No decree given by any sheriff in any cause or prosecution decided under the authority of this Act shall be subject to reduction, advocation, suspension, or appeal, or any other form of review or stay of execution, other than provided by this Act, either on account of any omission or irregularity or informality in the citation or proceedings, or on the merits, or on any ground or reason whatever.

31. Appeal from Decrees of Sheriff.—It shall be competent to any person conceiving himself aggrieved by any decree given by any sheriff in any cause . . . raised under the authority of this Act to bring the case by appeal before the next circuit court of Justiciary, or, where there are no circuit courts, before the High Court of Justiciary at Edinburgh, in the manner, and by and under the rules, limitations, conditions, and restrictions contained in the before-recited Act passed in the twentieth year of the reign of his Majesty King George the Second, for taking away and abolishing the heritable jurisdictions in Scotland, except in so far as altered by this Act: Provided always, that such appeal shall be competent only when founded on the ground of corruption or malice and oppression on the part of the sheriff, or on such deviations in point of form from the statutory enactments as the court shall think took place wilfully, or have prevented substantial justice from having been done, or on incompetency, including defect of jurisdiction of the sheriff; provided also, that such appeals shall be heard and determined in open court, and that it shall be competent to the court to correct such deviation in point of form, or to remit the cause to the sheriff with instructions or for re-hearing generally, and it shall not be competent to produce or found upon any document as evidence on the merits of the original cause, which was not produced to the sheriff when the case is heard, and to which his signature or initials have not been then affixed, which he is only to do if required, nor to found upon nor refer to the testimony of any witness not examined before the sheriff, and whose name is not written by him, when the case is heard, upon the record copy of the summons, which he is to do when specially required to that effect: Provided further, that no sist or stay of the process

and decree and no certificate of appeal shall be issued by the sheriff clerk, except upon consignation of the whole sum, if any, decerned for by the decree and expences, if any, and security found for the whole expences which may be incurred and found due under the appeal.

S. 31 *in part rep.* 54 & 55 *Vict. c.* 67 (*S.L.R.*).

32. Fees to be taken.—The following and no other or higher fees or dues of consignation shall be allowed to be taken for any matters done in any cause . . . raised under the authority of this Act:

Clerk's Fees in Causes under this Act.

Summons, including precept of arrestment, one shilling:
Each copy of service, sixpence:
Entering in procedure book, sixpence:
Renewed warrant to arrest on dependence, and entering in book, one shilling:
Certificate loosing arrestment, one shilling:
Bond of caution, one shilling and sixpence:
Second diligence for compelling witnesses or havers to attend, one shilling:
Decree, including extract, if demanded, one shilling:
Hearing after decree in absence, one shilling and sixpence:
Indorsation of decree or warrant, and entering in book, one shilling.
Receiving report of sequestration and appraisement, and entering in book, one shilling:
Receiving report of sale under sequestration, and entering, one shilling:
Receiving report of poinding and sale, and entering, one shilling and sixpence.

Officer's Fees, including Assistants.

Citation of a party or intimation of counter claim, and execution of citation given personally, one shilling:
Ditto, ditto, if citation not given personally, sixpence:
Citation of a witness or haver, sixpence:
Charging on decree, and returning execution of charge, one shilling.
Arrestment, and returning execution thereof, sixpence:
Intimation of loosing arrestment, and execution thereof, sixpence:
Poinding or sequestration and inventory, two shillings and sixpence:
Sale and report, two shillings and sixpence:
Officers travelling expences, for each complete mile from the cross or tron or other usual place of measurement in the town or place where the court is held, where there is any such, or if there be none such, then from the court house of such town or place to the place of execution or service, the distance travelled in returning after execution of the duty not to be reckoned, sixpence:
Assistants, each per mile, in the same manner, fourpence.

Crier's Fee.

For calling each cause, one penny, payable when summons is issued.

S. 32 *in part rep.* 54 & 55 *Vict. c.* 67 (*S.L.R.*).

33. Table of Fees to be printed and hung up in Sheriff Clerk's Office and Sheriff Court Place.—An exact copy of the immediately preceding section of this Act shall be printed on each summons or complaint, and on each service copy thereof, and shall also be at all times hung up in every sheriff clerk's office and in every sheriff court place during the holding of any sheriff's small debt court; and any sheriff clerk from whose office any summons or service copy thereof shall be issued not having such copy of the said section printed thereon, or at any time omitting to have such copy hung up in his office or in the sheriff court place as aforesaid, or not causing the roll of causes each court day to be publicly exhibited, or not causing the number and names of the parties in such roll to be called in their order as aforesaid, except with leave of the sheriff upon cause shown in open court, shall be liable in a penalty not exceeding forty shillings, to be recovered at the instance of any person who shall prosecute for the same, and to be disposed of as the sheriff shall direct.

34. Penalty on Officers neglecting Duty.—In all or any of the cases above

mentioned, where any decree or warrant shall have been indorsed as aforesaid, the sheriff's officer of the county where such decree or warrant has been originally issued, as well as of any county wherein the same is indorsed, are hereby authorised and required to obey and enforce such decree or warrant within such other county; and any sheriff's officer failing to report any sequestration or poinding and sale as above directed, or violating or neglecting any other duty intrusted to him under this Act, or wilfully acting contrary to any provision thereof, shall be liable in a penalty not exceeding forty shillings, to be recovered at the instance of any person aggrieved thereby, and to be disposed of as the sheriff shall direct, reserving always all further claim of damages otherwise competent against any such officer, and without prejudice to the sheriff's lawful authority to remove and punish all officers of his court for misbehaviour or malversation in office.

35. Privileged persons not exempt from Sheriff's Jurisdiction.—No person whatsoever shall be exempt from the jurisdiction of the sheriff in any cause . . . raised under the authority of this Act on account of privilege, as being a member of the college of justice, or otherwise.

S. 35 *in part rep.* 54 & 55 *Vict. c.* 67 (*S.L.R.*).

36. Judges may limit Fees in Causes not exceeding L.8, 6s. 8d., brought otherwise than under this Act.—In all causes and prosecutions wherein the debt, demand, or penalty shall not exceed the value of eight pounds six shillings and eightpence sterling, exclusive of expences and fees of extract, which shall in future be brought or carried on before any court not according to the summary form herein provided, it shall be lawful for the judge in such court notwithstanding to allow no other or higher fees or expences to be taken or paid than those above mentioned.

37. Meaning of Words in this Act.—In all cases in this Act or in the schedules hereto annexed the word "sheriff" shall be held to include sheriff depute . . . and sheriff substitute . . . ; the words "sheriff court" to include and apply to the court of the sheriff or steward or their substitutes; the words "sheriff clerk" to include . . . depute sheriff clerk . . . ; the word "sheriffdom" to include and be included in the words shire, county, or stewartry; the word "person" to extend to a partnership, body politic, corporate, or collegiate, as well as an individual; the word "landlord" to include any person having a right to exact rent, whether as owner, life-renter, heritable creditor in possession, principal tenant, or otherwise; and every word importing the singular number only shall extend and be applied to several persons or things as well as one person or thing; and every word importing the plural number shall extend and be applied to one person or thing as well as several persons or things, and every word importing the masculine gender only shall extend and be applied to a female as well as a male; provided always, that those words and expressions occurring in this clause, to which more than one meaning is attached, shall not have the different meanings given to them by this clause in those cases in which there is any thing in the subject or context repugnant to such construction.

S. 37 *in part rep.* 53 & 54 *Vict. c.* 51 (*S.L.R.*).

[*S.* **38** *rep.* 37 & 38 *Vict. c.* 35 (*S.L.R.*).]

SCHEDULES to which the foregoing Act refers.

Sect. 3. Schedule (A.)

No. 1.

Summons or Complaint in a Civil Cause.

A.B., sheriff of the shire of to officers of court, jointly and severally.

Whereas it is humbly complained to me by C.D. [design him], that E.F. [design him], defender, is owing the complainer the sum of [here insert the origin of debt or ground of action, and whenever possible the date of the cause of action or last date in the account], which the said defender refuses or delays to

pay; and therefore the said defender ought to be decerned and ordained to make payment to the complainer, with expences: Herefore it is my will, that on sight hereof ye lawfully summon the said defender to compear before me or my substitute in the court house at upon the day of at of the clock, to answer at the complainer's instance in the said matter, with certification, in case of failure, of being held as confessed; requiring you also to deliver to the defender a copy of any account pursued for, and that ye cite witnesses and havers for both parties to compear at the said place and date, to give evidence in the said matter; and in the meantime that ye arrest in security the goods, effects, debts, and sums of money belonging to the defender as accords of law. Given under the hand of the clerk of court at the day of .

J.P. sheriff clerk.

No. 2.

CITATION for Defender.

E.F., defender, above designed, ye are hereby summoned to appear and answer before the sheriff in the matter, and at the time and place, and under the certification set forth in the above copy of the summons or complaint against you.

This notice, served upon the day of by me,

J.T. sheriff's officer.

No. 3.

EXECUTION of Citation of Defender.

Upon the day of one thousand eight hundred and I duly summoned the above designed E.F., defender, to appear and answer before the sheriff in the matter, and at the time and place, and under the certification above set forth. This I did by leaving a full copy of the above summons or complaint, with a citation thereto annexed,* for the said defender [in his hands personally, or otherwise, as the case may be].

J.T. sheriff's officer.

* If there is an account mentioned in the complaint the officer must serve a copy of it along with a copy of the summons or complaint.

No. 4.

EXECUTION of Notice of counter Claim by Defender against Pursuer.

Upon the day of I gave notice to C.D., pursuer, of the above counter account [or claim] intended to be pleaded against him by E.F., defender in the small debt action to which the said defender was summoned to appear before the sheriff at upon the day of at of the clock. This I did by leaving a copy of the above account [or notice of claim, shortly explaining it,] for the said pursuer [in his hands personally, or otherwise, as the case may be].

J.T. sheriff officer.

No. 5.

CITATION for Witnesses.

M.N. [design him], you are hereby summoned to appear before the sheriff of the shire of or his substitute, in the court house at upon the day of one thousand eight hundred and at of the clock, to bear witness for the [pursuer or defender, as the case may be,] in the summons or complaint at the instance of C.D. [design him] against E.F. [design him], and that under the penalty of forty shillings if you fail to attend.

This notice served on the day of by me.

J.T. sheriff officer.

No. 6.

EXECUTION of Citation of Witnesses.

Upon the day of one thousand eight hundred and I duly summoned M.N., &c. [design them], to appear before the sheriff of the shire of or his substitute, in the court house at upon the day of one thousand eight hundred and at of the clock, to bear witness for the in the summons or complaint at the instance of C.D. [design him] against E.F. [design him]. This I did by delivering a just copy of citation, signed by me, to the said M.N. [personally, or otherwise, as the case may be].

J.T. sheriff officer.

No. 7.

DECREE for Pursuer in a Civil Cause.

At the day of one thousand eight hundred and the sheriff of the shire of finds the within-designed defender, liable to the pursuer in the sum of with of expences, and decerns and ordains instant execution by arrestment, and also execution to pass hereon by poinding and sale and imprisonment if the same be competent, after free days.

J.P. sheriff clerk.

. . . . . .

No. 10.

DECREE of Absolvitor, with Expences.

[The following will answer either for civil causes or prosecutions for penalties.]

At the day of one thousand eight hundred and the sheriff of the shire of assoilzies the within-designed E.F., defender, from the within complaint, and finds the within-designed C.D., pursuer, liable to him in the sum of of expences, and decerns and ordains instant execution by arrestment, and also execution to pass hereon by poinding and sale after free days.*

J.P. sheriff clerk.

* Where the pursuer does not return the original summons the above decree may be written on the copy served on the defender.

No. 11.

CHARGE on Decree.

E.F., above designed, you are hereby charged to implement the decree of which, and of the complaint whereon the same proceeded, the above is a copy, within days from this date, under pain of poinding and sale without further notice. This charge given by me, on the day of before O.P. [design him].

J.T. sheriff officer.

No. 12.

EXECUTION of Charge.

[To be on the same paper with the complaint and decree.]

On the day of one thousand eight hundred and I duly charged E.F., above designed, to implement the above decree within the

time and under the pains therein expressed. This I did by delivering a just copy of the foregoing complaint and decree, and a charge thereto annexed subscribed by me, to the said E.F. [personally, or as the case may be,] before O.P. [design him], witness hereto, with me subscribing.

O.P. witness. J.T. sheriff officer.

Sched. (A.) in part rep. 54 & 55 Vict. c. 67 (S.L.R.).

SCHEDULE (B.)

SUMMONS of Sequestration and Sale at the Instance of a Landlord.

A.B. sheriff of the shire of to officers of court jointly and severally.

Whereas it is humbly complained to me by C.D., pursuer, [design him,] that E.F., defender, [design him,] is owing to the pursuer the sum of , being the rent for [describe the premises], possessed by him, from to [if any partial payments have been made let them be here stated], and which rent [or balance of rent, as the case may be], the said defender refuses or delays to pay; therefore warrant ought forthwith to be granted to inventory, appraise, sequestrate, and, if need be, secure the goods and effects upon or within the said premises, and decree ought to be pronounced decerning the defender to make payment of the said rent [or balance of rent, as the case may be,] to the pursuer, with expences, and warrant ought also to be granted to sell the goods and effects sequestrated in payment of the said rent [or balance of rent, as the case may be] and expences: Herefore it is my will, that on sight hereof ye lawfully summon the said defender to compear before me or my substitute, within the court house of upon the day of at of the clock, to answer at the pursuer's instance in the said matter, with certification, in case of failure, of being held as confessed, and decree and warrant pronounced as craved: And my will further is, that ye forthwith inventory, sequestrate, and, if need be, secure the goods and effects upon or within the said premises until the further orders of court, or until the said defender shall make payment to the pursuer of the amount of the rents pursued for, with the expences, or shall consign in the hands of the clerk of court the amount of the rents pursued for, with two pounds sterling to cover expences; and that ye cite witnesses and havers for both parties to compear at the said place and date, to give evidence in the said matter. Given under the hand of the clerk of court at the day of .

J.P. sheriff clerk.

[After hearing the cause the decree and procedure in the sequestration and sale will be similar to the forms in ordinary causes, the words "sequestration" and "sequestrated" being introduced when necessary instead of "poinding" and "poinded."]

SCHEDULE (C.)

ARRESTMENT on the Dependence of an Action.

By virtue of a warrant of the sheriff of the shire of given under the hand of the clerk of court at on the day of for arrestment on the dependence of an action raised before the said sheriff at the instance of C.D. [design him], complainer, against E.F. [design him], defender, I hereby fence and arrest in the hands of you K.L. [design him], all sums of money owing by you to the said defender or to any other person for his use and behoof, and all goods and effects in your custody belonging to the said defender [or, in the case of ships or maritime subjects, say, I hereby fence and arrest the ship M. of N. presently lying in the harbour of O., with her boats, furniture, and apparelling, or other maritime subjects], and that to an amount or extent not exceeding the value of eight pounds six shillings and eight-pence sterling, all to remain under sure fence and arrestment, at the complainers' instance, until due con-

signation be made or until sufficient caution be found as accords of law. This I do on the day of before O.P. [design him], by delivery of a copy of this execution to you [personally, or as the case may be].

J.T. sheriff officer.

EXECUTION of Arrestment on the Dependence of an Action.

[To be on the same paper with the summons or other warrant of arrestment.]

Upon the day of one thousand eight hundred and , between the hours of and , by virtue of the foregoing warrant of arrestment, I lawfully fenced and arrested in the hands of K.L. [design him] all sums of money owing by him to the foresaid E.F., defender, or to any other person for his use and behoof, and all goods and effects in the custody of the said arrestee belonging to the said defender, [or, in case of ships or maritime subjects, as before,] and that to an amount or extent not exceeding the value of eight pounds six shillings and eightpence sterling, all to remain under sure fence and arrestment, at the foresaid complainer's instance, until due consignation be made or until sufficient caution be found as accords of law. This I did by delivering a just copy of arrestment, subscribed by me, to the said arrestee personally [or as the case may be,] before O.P. [design him], hereto with me subscribing.

O.P. witness. J.T. sheriff officer.

BOND or Enactment of Caution for loosing Arrestment.

At on day of one thousand eight hundred and compeared G.H. [design him], who hereby judicially binds himself, his heirs, executors, and successors, as cautioners acted in the sheriff court books of the shire of for E.F. [design him], common debtor, against whom arrestment was used at the instance of C.D. [design him] in the hands of K.L. [design him], on the day of , in virtue of [describe the warrant], dated the day of , that the sums of money, goods, and effects owing or belonging to the said common debtor, arrested as aforesaid, shall be made forthcoming as accords of law.

G.H.

CERTIFICATE for loosing Arrestment used on the Dependence of an Action.

Whereas arrestment was used on the dependence of an action at the instance of C.D. [design him], against E.F. [design him], in the hands of K.L. [design him, or as the case may be], on the day of , by virtue of a warrant of the sheriff of the shire of given under the hand of the clerk of court at the day of : And whereas the said E.F. has now made sufficient consignation in the hands of the sheriff clerk of [or if caution has been found, say] has found sufficient caution acted in the sheriff court books of by G.H. [design him], his cautioner, [here state the nature of the caution], in order to the loosing of the said arrestment: Warrant for loosing the said arrestment is hereby granted accordingly. Given under the hand of the clerk of court at the day of .

J.P. sheriff clerk.

INTIMATION of loosing Arrestment.

[To be on the same paper with a copy of the foregoing warrant.]

K.L. [design him], take notice, that by virtue of the warrant whereof the above is a copy the arrestment on the dependence of the action above mentioned, used in your hands at the instance of the foresaid C.D. against the foresaid E.F., is loosed and taken off. This notice served on the day of by me,

J.T. sheriff officer.

Execution of Intimation of loosing Arrestment.

[To be on the same paper with the original warrant for loosing the arrestment.]

Upon the day of one thousand eight hundred and I duly intimated the above warrant to K.L. [design him], arrestee. This I did by leaving a full copy thereof and intimation thereon, subscribed by me, for him [in his hands personally, or as the case may be].

J.T. sheriff officer.

Schedule (D).

Summons of Complaint in Cases of Forthcoming.

A.B. sheriff of the shire of to officers of court, jointly and severally.

Whereas it is humbly complained to me by C.D. [designation], upon and against K.L. [designation], arrestee, and E.F. [designation], common debtor, that the said common debtor is owing the complainer the sum of contained in [describe shortly the decreet, or bill, or bond, et cætera, by which the debt is constituted], and that the complainer on the day of years, in virtue of a warrant by dated the day of , arrested in the hands of the arrestee [here insert the terms of the arrestment used], which ought to be made forthcoming to the complainer: Therefore the said arrestee, and the said common debtor for his interest, ought to be decerned and ordained to make forthcoming, pay, and deliver to the complainer the money, goods, and effects arrested as aforesaid, or so much thereof as will satisfy and pay the said sum of owing to the complainer as aforesaid: Herefore it is my will, that on sight hereof ye lawfully summon the said arrestee, and the said common debtor for his interest, to compear before me or my substitute in the court house at upon the day of years at of the clock, to answer at the complainer's instance in the said matter, with certification in case of failure of being held as confessed; and that ye cite witnesses and havers for both parties to compear at the said place and date to give evidence in the said matter. Given under the hand of the clerk of court at the day of years.

J.P. sheriff clerk.

[The citations and executions, and decree for the defender, with expences, may be the same as in schedule (A.).]

Decree for the Pursuer in Cases of Forthcoming.

At the day of one thousand eight hundred and the sheriff for the shire of decerns and ordains the within-designed arrestee, to make forthcoming, pay, and deliver to the also within-designed pursuer [if the arrestee has money arrested in his hands, the rest of the judgment will be the same as in ordinary cases; if there are goods and effects to be made forthcoming, the rest of the judgment will be as follows:] the arrested goods and effects following; videlicet, , and grants warrant to sell the same, or as much thereof as will satisfy the sum of and of expences of process and the expence of sale; and failing the said arrestee making forthcoming, and delivering the said goods and effects within , then to make payment to the said pursuer of the said sum of ; for recovery of which sums, the said period being elapsed without forthcoming and delivery of the said goods and effects, ordains instant execution by arrestment, and also execution to pass hereon by poinding and sale and imprisonment, if the same be competent, after free days.

J.P. sheriff clerk.

Schedule (E.)

Summons of Multiplepoinding.

A.B. sheriff of the shire of to officers of court, jointly and severally.

Whereas it is humbly shown to me by A.B., pursuer, [design him,] that he is holder of [here state the fund or subject in medio, and if necessary refer to the account thereof produced], belonging to E.F., common debtor [design him,] which fund the pursuer is ready to pay [or deliver] to the said common debtor, or to whomsoever shall be found to have best right thereto, but he is distressed by claims being made thereon by the persons following, videlicet, [here state the names and designations of all the claimants, so far as known to the holder or raiser of the action]; wherefore the said pursuer ought to be found liable only in once and single payment [or delivery] of the said fund or subject to whomsoever of the said parties or others interested shall be found by me to have best right thereto [or in the meantime consignation ought to be ordered of the fund or subject or sale of the subject in medio], deducting the pursuer's expences, and decree ought to be pronounced accordingly, and all other parties ought to be prohibited from molesting the pursuer thereanent in all time coming: Herefore it is my will, that on sight hereof ye lawfully summon the said common debtor and the said claimants [and in case of the action being raised by a claimant in name of the holder, it will be necessary also to summon the nominal pursuer,] to compear before me or my substitute in the court house of upon the day of at of the clock, to attend to their several interests in the said matter, with certification in case of failure of being held as confessed; requiring you also to deliver to the said common debtor a copy of any account produced with the summons, and that he cite witnesses and havers for all parties to compear at the said place and date to give evidence in the said matter. Given under the hand of the clerk of the court at the day of .

J.P. sheriff clerk.

Form of Claim in Multiplepoinding.

I. A.B. [design him] hereby claim to be preferred on the fund in the multiplepoinding raised in the name of [mention the raiser], against [mention the defenders], for [state the claim], of principal due to me by [here state generally the ground of debt, whether by bond, bill, account, &c., as the case may be], with interest from with expences.

A.B.

Form of Interlocutor of Preference.

Prefers [here design him], claimant for [here specify the sum].

[To be signed by the sheriff.]

[The citations and procedure to be as nearly as may be in the forms in other causes, and warrant to sell the subjects forming the fund in medio to be granted and carried into effect in the ordinary form.]

Schedule (F.)

No.	Dates of Complaints.	Pursuer	Defenders.	Nature and Amount.	How cited.	By what Officer.	Leave and Cause of Procurator's Appearance.	Interlocutors and Decrees.

N.B.—After the name of each pursuer and defender let the letter P. or A. be added, in order to mark whether the party was present or absent when the cause was called; and should the party appear by or with any other person or a procurator, his or her name shall be marked as so appearing. Let expences be also entered under the head of "Interlocutors."

SCHEDULE (G.)

REPORT of Sequestration or Poinding and Sale.

[To be varied according to circumstances.]

Report of the sequestration or poinding and sale at the instance of C.D. [design him] against E.F. [design him].

Lots.	EFFECTS.	Appraised at.	Sold at
		£ *s.* *d.*	£ *s.* *d.*
1	An eight-day clock - - -	4 0 0	4 10 0
2	Six chairs, at 6s. - - -	1 16 0	1 18 0
3	One table - - - - -	0 8 0	0 8 0
4	One chest of drawers - - -	1 12 0	1 12 0
		£7 16 0	£8 8 0

Upon the day of one thousand eight hundred and between the hours of and by virtue of a decree of the sheriff of given under the hand of the clerk of court at on the day of at the instance of C.D., above designed, against E.F., above designed, for payment of the sums of I passed with the witnesses and appraisers after named and designed to , and then and there, after demanding payment of the sums contained in the said decree past due, and payment not being made, I poinded the effects above enumerated belonging to the said debtor, and after making an inventory or list therof, and getting the same duly appraised on oath at the several values respectively above specified in the first column, and amounting in all to [here insert the amount in words], and leaving a copy of such inventory or list and appraisement with the said debtor personally [or as the case may be], I carried the said effects to the of [or as the case may be], and there betwixt the hours of and and after public notice of at least hours, I sold the said effects by public roup to the highest bidder, at the prices above specified in the second column for each lot respectively,* and amounting in all to [here insert the amount in words]; these things were so done before and with O.P. and Q.R. [design them], witnesses and appraisers, in the premises hereto with me subscribing.

J.T. sheriff officer.

O.P. witness and appraiser.
Q.R. witness and appraiser.

Reported to the sheriff clerk of the shire of the day of by me,

J.T. sheriff officer.

* If the effects are not sold, the tenor of the report must be altered according to the state of the fact; for instance, ["I exposed the said goods and effects to public sale, but no person having offered "the appraised value, therefore I declared the same to belong to the said C.D. at the said respective "appraised values in payment to that amount of the sums in said decree."] In case the goods poinded, or part of them, shall sell for more than the sums in the decree, and expences of poinding and sale, say, ["I sold part of the said effects, viz. lots 1, 2, and 3, by public roup to the highest "bidder at the prices above specified in the second column for each of said lots respectively, and "amounting in all to (here insert the amount in words); and I returned to the said debtor the sum "of being the overplus of the price, after payment of the sum decerned for "past due, and the sum of being the expences of poinding and sale, conform "to the Act of Parliament; and I also returned to the said debtor the effects specified in the other "lots above enumerated."]

SCHEDULE (H.)

Counties.	Places at which Circuits are to be held.	Counties.	Places at which Circuits are to be held.
Aberdeen	Inverury - Four times. Tarland - Four times. Turriff - Four times. Peterhead - Six times. Huntly - Four times. Old Deer - Four times.	Haddington	North Berwick - Three times. Dunbar - Six times. Tranent - Four times.
Argyle	Oban - Four times. Bowmore, Island of Isley. - Four times. Dunoon - Four times. Lochgilphead - Four times.	Inverness	Kingussie - Three times. Fort Augustus - Three times. Grantown - Three times.
Ayr	Saltcoats - Four times. Largs - Three times. Kilmarnock - Twelve times. Beith - Three times. Old Cumnock - Three times. Girvan - Three times. Maybole - Four times.	Kincardine	Laurence Kirk - Three times. Bervie - Four times. Durris - Three times.
Berwick	Lauder - Three times. Dunse - Six times. Coldstream - Six times. Ayton - Three times.	Kirkcudbright	New Galloway - Three times. Maxwelltown - Four times. Castle Douglas - Four times. Creetown - Three times.
Banff	Cullen - Three times. Keith - Six times. Dufftown - Three times.	Lanark	Biggar - Four times. Ardrie - Twelve times. Douglas - Three times.
Bute	Brodick in Arran Four times. Milport - Four times.	Linlithgow	Bathgate - Four times. Queensferry - Three times.
Caithness	Thurso - Eight times. Libster - Six times.	Orkney	St. Margaret's Hope - Three times. Stromness - Three times. Sanday - Three times.
Dumbarton	Kirkintullock - Four times. Helensburgh - Four times.	Shetland	Burravoe - Two times.
Dumfries	Sanquhar - Four times. Annan - Four times. Langholm - Four times. Moffat - Four times. Lockerbie - Three times.	Perth	Crieff - Four times. Callender - Four times. Kincardine (Tulliallan) Four times. Dunkeld - Four times. Aberfeldy - Three times. Blair Gowrie - Four times. Cupar Angus - Four times.
Edinburgh	Mid Calder - Four times. Dalkeith - Six times. Musselburgh - Six times. Stowe - Two times.	Renfrew	Lochwinnock - Six times. Pollokshaws - Six times.
Elgin	Fochabers - Three times. Grantown - Three times. Forres - Six times.	Ross and Cromarty	Kincardine - Two times. Jeantown - Two times. Fortrose - Four times. Invergordon - Four times.
Fife	Auchtermuchty - Four times. Newburgh - Four times. St. Andrew's - Four times. Colinsburgh - Four times. Kirkcaldy - Six times.	Roxburgh	Melrose - Four times. Hawick - Six times. Kelso - Six times. Newcastleton Three times.
Forfar	Brechin - Six times. Montrose - Six times. Arbroath - Six times. Kirriemuir - Four times.	Selkirk	Galashiels - Four times.
		Stirling	Drymen - Four times. Lennox, Town of Campsie Four times. Balfron - Four times.
		Sutherland	Lavig - Two times. Tongue - Two times. Port Gower - Two times.
		Wigton	Stranraer - Six times. Whithorn - Four times. Newton Stewart - Four times

SCHEDULE (I.)

NOTICE.

A.B. [add designation], residing , is the depute sheriff clerk to whom application for summonses and every thing else necessary for the sheriffs circuit at this place for small debt causes must be made [or, in case the depute shall not be resident, say A.B. [add designation and place of residence] is the depute sheriff clerk, who will officiate at in the sheriffs small debt circuit court, and C.D. [add designation], residing at , is the person who will issue summonses or complaints to be brought in such court].

Date .

Place .

SCHEDULE (K.)

NOTICE.

The sheriff will hold circuit courts for small debt causes at on the day of at of the clock, and on every [fix the time periodically, or if not, new notice to be given].

A.B. [add designation and residence] is the clerk for this place.

Date .

Place .

CHAPTER LX.

THE ACTS OF PARLIAMENT (MISTAKEN REFERENCES) ACT, 1837 (*Short Titles Act*, 1896).

AN ACT for correcting mistaken References to His late Majesty in Acts of this Session of Parliament. [15th July 1837.]

[*Preamble.*]

1. WRONG REFERENCES NOT TO INVALIDATE ACTS OF THE PRESENT SESSION.—Every Act of this present session of Parliament which shall have received the royal assent subsequent to the demise of his late Majesty, and in which any Act of Parliament passed in the reign of his late Majesty shall be referred to, either by way of recital, reference, enactment, or otherwise, as if his Majesty still continued to reign, shall be taken to refer to every such last-mentioned Act of Parliament correctly as of the reign of his late Majesty; and no such incorrect or mistaken reference as is herein-before recited shall in anywise impeach or affect any Act of Parliament passed or to be passed in this present session of Parliament, or any clause or provision thereof.

CHAPTER LXVII.

THE MASTER AND WORKMEN (ARBITRATION) ACT, 1837 (*Short Titles Act*, 1896).

AN ACT to amend an Act of the Fifth Year of His Majesty King George the Fourth, for consolidating and amending the Laws relative to the Arbitration of Disputes between Masters and Workmen. [15th July 1837.]

1. PERIOD FOR MAKING COMPLAINTS UNDER RECITED ACT EXTENDED.—Whereas an Act was passed in the fifth year of the reign of his Majesty King George the Fourth, intituled "An Act to consolidate and amend the laws relative to the arbitration of "disputes between masters and workmen": And whereas it is provided by the said Act that all complaints under the same by any workman for any cause, except as to bad materials, shall be made within six days after such cause of complaint shall arise; but the said period of six days has been found too short for the purpose thereby intended: Be it therefore enacted that the same be extended to fourteen days.

2. JUSTICES HAVING JURISDICTION WHERE THE PARTY COMPLAINED AGAINST RESIDES TO HAVE JURISDICTION IN THE MATTERS OF THE SAID ACT.—And whereas it is enacted by the said Act, that various differences under the same shall be subject as therein mentioned to the adjudication of any justice of the peace or magistrate of any county, riding, division, stewartry, barony, city, burgh, town, or place within which the parties reside: And whereas many cases have arisen where no justice of the peace or magistrate could be found who has jurisdiction where both of the parties differing as aforesaid reside; in consequence whereof it has been doubted whether the above beneficial enactment can in such cases take effect; and for the remedy thereof it is necessary that the jurisdiction and powers which are by the said Act conferred on the justices or magistrates of the district where both parties reside, shall in future be exercised by the justices or magistrates of the district where the party complained against resides: Be it enacted, that in the place of the justices or magistrates of the district where both parties reside, the

justices or magistrates of the district where the parties complained against reside shall have the said jurisdiction and powers; and whatever acts and duties are by the said Act required to be done by the first-mentioned justices or magistrates, or any one of them, shall be done by the last-mentioned justices or magistrates, or by any one of them; and the said Act shall in all respects be construed as if the words "where the "party complained against resides" had been originally inserted in the third section of the said Act instead of the words "within which the parties reside."

3. INTERPRETATION OF "JUSTICE OF THE PEACE" IN THE SAID ACT.—Wherever the expression "justice of the peace" occurs in the said Act, it shall be construed to mean "magistrate."

CHAPTER LXXII.

THE LORDS JUSTICES ACT, 1837 (*Short Titles Act*, 1896).

AN ACT to provide for the Appointment of Lords Justices in the Case of the next Successor to the Crown being out of the Realm at the Time of the Demise of Her Majesty. [15th July 1837.]

Whereas it may happen that whensoever our sovereign lady the Queen (whom God long preserve) shall demise and depart this life, the next successor entitled to the Crown of these realms may at such time be out of the realm of the United Kingdom of Great Britain and Ireland, in parts beyond the seas:

1. LORDS JUSTICES APPOINTED IN CASE THE SUCCESSOR TO THE CROWN SHOULD BE OUT OF THE REALM AT THE QUEEN'S DEATH.—For the continuing of the administration of the government in the name of such successor until his or her arrival in the United Kingdom of Great Britain and Ireland, the officers hereinafter named who shall be in the possession of their offices at the time of such demise of her Majesty, that is to say, the archbishop of Canterbury at that time being, the lord chancellor or lord keeper of the great seal of Great Britain at that time being, the lord high treasurer at that time being, the lord president of the council at that time being, the lord privy seal at that time being, the lord high admiral of the United Kingdom at that time being, and the lord chief justice of the Queen's Bench at that time being, shall be and are by virtue of this Act constituted and appointed lords justices of the United Kingdom of Great Britain and Ireland, and are and shall be by virtue of this Act empowered in the name of such successor and in his or her stead, to use, exercise, and execute all powers, authorities, matters, and acts of government and administration of government, in as full and ample manner as such next successor could use, exercise, or execute the same, if he or she were present in person within this United Kingdom of Great Britain and Ireland, until such successor shall arrive or otherwise determine their authority.

2. THE SUCCESSOR BY THREE INSTRUMENTS MAY ADD OTHERS—MAJOR PART OF LORDS JUSTICES, BEING NOT FEWER THAN FIVE, MAY ACT.—Nevertheless such person who is or shall be next entitled to succeed to the Crown of these realms shall be and is hereby empowered, at any time during her Majesty's life, by three instruments under his or her hand and seal, revocable or to be altered at his or her will and pleasure, to nominate and appoint such and so many persons, being natural-born subjects of this realm of Great Britain and Ireland, as he or she shall think fit, to be added to the officers before named to be lords justices as aforesaid, who shall be empowered by authority of this Act to act with them as lords justices of the United Kingdom of Great Britain and Ireland, as fully and in the same manner as if they had been herein particularly named; which said lords justices, or the major part of them which shall assemble, so as such major part be not fewer than five, shall and may use, exercise, and execute all the powers and authorities before mentioned as fully and effectually, to all intents and purposes, as if all of them had been assembled together and consenting.

3. THE THREE INSTRUMENTS TO BE TRANSMITTED INTO GREAT BRITAIN, AND SEVERALLY SEALED UP AND DEPOSITED WITH THE PERSONS HEREIN MENTIONED—REVOCATION OR ALTERATION THEREOF—PROVISION IN CASE OF THE DEATH, &C. OF ANY OF THE PERSONS WITH WHOM THE INSTRUMENTS ARE DEPOSITED.—The said three instruments, revocable and to be altered as aforesaid, shall be transmitted into the United Kingdom of Great

Britain and Ireland to the resident or accredited minister of such next successor, whose credentials shall be enrolled in the High Court of Chancery, and to the archbishop of Canterbury for the time being, and the lord chancellor or lord keeper of the great seal of Great Britain for the time being, close sealed up, and, after they are so transmitted, shall be put into several covers, which shall be severally sealed up with three several seals of such resident or accredited minister, and of the archbishop of Canterbury, and of the lord chancellor or lord keeper of the great seal of Great Britain; and one of them after it is so sealed up shall be lodged and deposited in the hands of such resident or accredited minister, one other of them in the hands of the said archbishop of Canterbury, and one other of them in the hands of the said lord chancellor or lord keeper; and if the next successor shall be minded to revoke or alter his or her nomination or appointment made as aforesaid, and shall by three writings of the same tenor, under his or her hand and seal, require the said instruments deposited as aforesaid to be delivered up to some person or persons thereby authorized to receive the same, then and in such case the said persons with whom the said instrument shall be deposited, and every of them, and, in case of any of their deaths, their executors or administrators respectively, and every other person in whose custody any of the said instruments shall happen to be, shall deliver up the said instruments accordingly unopened, and they are hereby respectively authorized and required so to do; and if any of the said persons with whom the said instruments shall be so deposited shall happen to die, or be removed from their respective offices or employments during the life of her present Majesty, such person and persons, and, in case of any of their deaths, their executors or administrators respectively, and every other person in whose custody any of the said instruments shall happen to be, shall, with all convenient speed, deliver such of them as shall be in his or their custody, unopened, to the successor or successors of the person so dying or removed as aforesaid; which said several instruments so sealed up and deposited as aforesaid shall immediately after the demise of her Majesty be brought before the privy council unopened, where the same shall be forthwith opened and read, and afterwards enrolled in the High Court of Chancery.

4. Any one of the Instruments produced to the Privy Council to be effectual to give authority to the persons therein named, &c.—If all the said instruments deposited as aforesaid shall not be produced before the said privy council as aforesaid, then any one or more of the said instruments so produced as aforesaid shall be as effectual to give such authority as aforesaid to the persons therein named as if all of them had been produced as aforesaid; and if there be not any nomination by such instruments, then the said seven officers, or any five of them, are constituted and appointed to be lords justices of the United Kingdom of Great Britain and Ireland, and are hereby invested with the powers and authorities mentioned in this Act.

5. Lords Justices not to have power to grant Rank, Title, or Dignity of Peerage, &c.—Provided always that the said lords justices shall not have or exercise any power or authority to grant any rank, title, or dignity of the peerage by letters patent, writ of summons, or any other manner whatever, or to summon any person to the House of Lords by any title to which such person is the heir apparent, or to determine the abeyance of any rank, title, or dignity of peerage, which now is or hereafter shall be in abeyance, in favour of any of the co-heirs thereof, by writ of summons or otherwise: Provided also, that the said lords justices shall not have any power or authority, without express directions from such next successor, to grant, lease, or dispose of any lands, tenements, or hereditaments whatsoever now belonging or hereafter to belong to her Majesty; nor to grant any office or employment whatever in reversion; nor to grant for any longer term than during the pleasure of such next successor any office, employment, salary, or pension whatever, except such offices and employments in possession for the term of the natural life of or during the good behaviour of the grantee or grantees thereof respectively, as by law must be so granted.

6. Lords Justices not to dissolve the Parliament sitting or convened under 6 Ann. c. 41, without direction from Successor, nor to alter certain Statutes—12 & 13 Will. 3, c. 2—14 Cha. 2, c. 4—Scots Act, 5 Ann.—The said lords justices constituted as aforesaid shall not dissolve such Parliament as shall be sitting at the time of such demise as aforesaid, or as shall be thereupon convened and sit as provided by an Act made in the sixth year of the reign of Queen Anne, intituled "An Act for the "security of her Majesty's person and government, and of the succession to the Crown

" of Great Britain in the protestant line," without express directions from such next successor; and the said lords justices shall be and are hereby restrained and disabled from giving the royal assent in Parliament to any Bill or Bills in Parliament for repealing, changing, or in any respect varying from the order and course of succession to the crown of this realm, as the same stands now established in the illustrious House of Hanover by the Act of the twelfth year of the reign of King William the Third, intituled "An Act for the further limitation of the Crown, and better securing the " rights and liberties of the subject"; or to any Act for repealing or altering the Act made in the thirteenth year of the reign of King Charles the second, intituled "An Act for " the uniformity of public prayers, and administration of sacraments and other rites and " ceremonies, and for establishing the form of making, ordaining, and consecrating bishops, " priests, and deacons in the Church of England"; or one Act of the fifth year of the reign of Queen Anne, made in Scotland, intituled "An Act for securing the protestant " religion and presbyterian church government."

7. Lords Justices to take certain Oaths.—The said lords justices, before they act or intermeddle in their said offices or any of the authorities hereby to them given, shall take the following oaths; (that is to say,)

'I A.B. do solemnly promise and swear, that I will truly and faithfully execute the 'office of lord justice of the United Kingdom of Great Britain and Ireland, according to 'an Act of Parliament made in the first year of the reign of her Majesty Queen 'Victoria, intituled [here insert the title of this Act]; and that I will administer the 'government of this realm and of all the dominions thereunto belonging according to 'the laws, customs, and statutes thereof, and will in all things to the utmost of my 'power and ability consult and maintain the safety, honour, and dignity of his [or her, 'as the case shall require] Majesty, and the welfare of his [or her, as the case shall 'require] people.

'So help me GOD.'

'I do faithfully promise and swear, that I will inviolably maintain and preserve the 'settlement of the true protestant religion, with the government, discipline, rights, and 'privileges of the church of Scotland, as established by law.

'So help me GOD.'

. . . Which said oaths shall be taken before the privy council of the United Kingdom of Great Britain and Ireland in being at the time of such demise of her Majesty, who are hereby required and empowered to administer and receive the same, and to enter the same in the council books.

S. 7 *in part rep.* 34 *&* 35 *Vict. c.* 48, *s.* 1, *and* 53 *&* 54 *Vict. c.* 51 (*S.L.R.*).

8. Parliament called by Lords Justices not to be dissolved by arrival of Successor.—If after such demise of her Majesty and before the arrival of any succeeding King or Queen in the United Kingdom of Great Britain and Ireland another Parliament shall be called by the lords justices by writs tested in their names, by the arrival of such succeeding King or Queen in the United Kingdom of Great Britain and Ireland such Parliament shall not be dissolved, but after such arrival shall proceed without any new summons.

9. Proviso in case any of the Great Offices are in commission at the Queen's death.—Provided always, that if any of the aforesaid seven offices, other than the office of lord high treasurer of the United Kingdom of Great Britain and Ireland, shall be in commission at the time of the demise of her Majesty, then the first commissioner of such respective commission shall be one of the said lords justices, and use, exercise, and execute all powers, authorities, matters, and acts of government by this Act vested in the said lords justices, according to the directions and provisions of this Act, in as full and ample manner as if such office or offices were in the hands of a single person: Provided also, that if there be no lord high treasurer of Great Britain and Ireland, and the office of the treasurer of the Exchequer shall be in commission, then the first in that commission shall be one of the said lords justices.

CHAPTER LXXIII.

THE CHARTERED COMPANIES ACT, 1837 (*Short Titles Act*, 1896).

AN ACT for better enabling Her Majesty to confer certain Powers and Immunities on trading and other Companies. [17th July 1837.]

[*Preamble recites* 6 *Geo.* 4, *c.* 91, *s*, 2; 4 *&* 5 *Will.* 4, *c.* 94.]

[*S.* 1 (*repealing recited enactments*) *rep.* 37 *&* 38 *Vict. c.* 35 (*S.L.R.*).]

2. PRIVILEGES MAY BE GRANTED BY LETTERS PATENT TO PERSONS ASSOCIATED FOR TRADING OR OTHER PURPOSES.—It shall and may be lawful for her Majesty, by letters patent to be from time to time for that purpose issued under the great seal of the United Kingdom of Great Britain and Ireland, or in Scotland under the seal appointed by the Articles of Union to be used instead of the great seal thereof, to grant to any company or body of persons associated together for any trading or other purposes whatsoever, and to the heirs, executors, administrators, and assigns of any such persons, although not incorporated by such letters patent, any privilege or privileges which, according to the rules of the common law, it would be competent to her Majesty to grant to any such company or body of persons in and by any charter of incorporation.

3. THE LETTERS PATENT SO GRANTED MAY PROVIDE THAT SUITS SHALL BE CARRIED ON IN THE NAME OF ONE OF THE OFFICERS OF ANY COMPANY APPOINTED FOR THAT PURPOSE—PROVISO AS TO JOINING MEMBERS OF COMPANY AS DEFENDANTS IN EQUITY.—In any such letters patent so to be granted as aforesaid by her Majesty to any such company or body of persons so associated together as aforesaid, but not incorporated, it shall and may be lawful, in and by such letters patent, either expressly or by a general or special reference to this Act, to provide and declare that all suits and proceedings, whether at law, in equity, or in bankruptcy or sequestration, or otherwise howsoever, as well in Great Britain and Ireland as in the colonies and dependencies thereof, by or on behalf of such company or body, or any person or persons as trustee or trustees for such company or body, against any person or persons, whether bodies politic or others, and whether members or not of such company or body, shall be commenced and prosecuted in the name of one of the two officers for the time being to be appointed to sue and be sued on behalf of such company or body, and registered in pursuance of the directions of such appointment and registration respectively herein-after contained; and all suits and proceedings, whether at law or in equity, by or on behalf of any person or persons, whether bodies politic or others, and whether or not members of such company or body, against such company or body, shall be commenced and prosecuted against one of such officers, or if there shall be no such officer for the time being, then against any member of such company or body: Provided nevertheless, that nothing in this Act or in such letters patent contained or to be contained shall prevent the plaintiff from joining any member of such company or body with such officer as a defendant in equity, for the purpose of discovery, or in case of fraud.

4. INDIVIDUAL LIABILITY OF MEMBERS OF A COMPANY MAY BE RESTRICTED BY LETTERS PATENT.—It shall and may be lawful, in and by such letters patent so to be granted to any such body or company as aforesaid, to declare and provide that the members of such company or body so associated as aforesaid shall be individually liable in their persons and property for the debts, contracts, engagements, and liabilities of such company or body to such extent only per share as shall be declared and limited in and by such letters patent; and the members of such company or body shall accordingly be individually liable for such debts, contracts, engagements, and liabilities respectively, to such extent only per share as in such letters patent shall be declared and limited; such liability nevertheless to be enforced in such manner and subject to such provisions as are herein-after contained.

5. DEED OF PARTNERSHIP TO BE EXECUTED.—Every such company or body to which any such privileges or powers as herein-before mentioned shall be granted under the authority of this Act, shall be entered into or formed by a deed of partnership or association, or an agreement in writing of that nature; and the undertaking shall by such deed or agreement be divided into a certain number of shares to be there specified; and in such deed or agreement, or in some schedule thereto, there shall be set forth the name or style of the said company or body, the names or styles of the members of the said

company or body, the date of the commencement thereof, the business or purpose for which the said company or body is formed, and the principal or only place for carrying on such business; and in such deed or agreement there shall also be contained the appointment of two or more officers to sue or be sued on behalf of such company or body in manner herein-after mentioned.

6. Return to be made as herein-after mentioned of the granting of Letters Patent, and style of Company.—Such company or body as aforesaid shall, within three calendar months after the grant of such letters patent as aforesaid, make or cause to be made a return to such one of the offices for enrolment herein-after mentioned as shall be required under the provisions of this Act, containing the date of the grant of such letters patent as aforesaid, the name or style of the said company or body, the business or purpose for which the said company or body is formed, the principal or only place for carrying on such business, the total number of shares in the said company or body (and each of which shares is to be distinguished by a separate number in regular succession), the amount to which each share shall render the holder thereof liable, the names and (except as to bodies politic) the places of abode of all the members thereof, and the distinctive number or numbers of the share or respective shares which each member holds; and such company or body shall also at the same time make a return of the names and descriptions of the officers appointed by such company or body to sue and be sued on behalf thereof in manner aforesaid; such return to be made in the form in the schedule (A.) to this Act annexed.

7. Name of Company not to be changed after Registry—If Place of Business is changed, Return to be made.—During the continuance of any such company or body after it shall have been so registered no change shall be made in the name or style thereof; and if the principal or only place for carrying on the business of the said company or body shall be changed, the said company or body shall within three calendar months after such change make or cause to be made a return to the said office as aforesaid of such change in the form in schedule (B.) to this Act annexed.

8. When persons cease to be Members of the Company, except by transfer of Shares, &c. Company to make Return within three months.—In case any person shall cease to be a member of such company or body (except by means of the transfer by deed or writing of any share therein), or in case of the addition of any person thereto (except by means of the transfer of any share as aforesaid), or of the change of the name of any member thereof by marriage or otherwise, the said company or body shall, within three calendar months after information shall be received by the said company or body of any person so ceasing as aforesaid, or of such change or addition as aforesaid, make or cause to be made a return to the said office as aforesaid, containing the names and places of abode of all persons having ceased to be members thereof (except as aforesaid), and the names and places of abode of all persons having become members thereof (except as aforesaid), and specifying any change in the name of any member thereof by marriage or otherwise; such return to be made in one of the forms in the schedule (C.) to this Act annexed, as the case may be.

9. On transfer of Shares, notice to be given to the Company.—On the transfer by deed or writing of any share in any such company or body as aforesaid, a notice in writing, specifying the date of such transfer, the distinguishing number of the share transferred, the name and (except in the case of a body politic) the place of abode of the person by whom or on whose behalf, and of the name and (except as aforesaid) the place of abode of the person to whom such transfer is made, shall be given to the said company or body, by leaving the transfer, when executed by both parties, or some note or memorandum thereof signed by them, at the principal or only office of the said company or body.

10. Company to make Return within three months after receiving Notice of Transfer.—In case of the transfer of any share in such company or body, the said company or body shall, within three calendar months after receiving such notice as aforesaid of such transfer, make or cause to be made a return to the said office as aforesaid, containing the date of such transfer, the distinguishing number of the share transferred, the name and (except in the case of a body politic) the place of abode of the person by whom or on whose behalf such transfer is made, and of the person to whom such transfer is made, in the form in schedule (D.) to this Act annexed; and such company or body are hereby required, on the request in writing of either of the parties, forthwith to make such return accordingly.

11. ANY PERSON HAVING MADE PAYMENT IN RESPECT OF A SHARE IN A LIMITED COMPANY UNDER ANY JUDGMENT, &c. AGAINST SUCH COMPANY TO MAKE A RETURN THEREOF.—Where the extent per share of the liability of the individual members of any such company or body shall have been limited by letters patent as aforesaid, it shall be lawful for any person who shall or may from time to time have advanced or paid any sum in consequence or by virtue of any execution or diligence issued against him in respect of any share in such company or body, under any judgment, decree, interlocutor, or order to be obtained against any officer of the said company or body, or any member thereof, in manner herein-after mentioned, to make a return thereof to such office as aforesaid in the form in schedule (E.) to this Act annexed; and every such return shall be accompanied with a proper voucher or vouchers of the fact of such payment, without which the same shall not be registered as herein-after mentioned.

12. COMPANY TO MAKE RETURN WHEN REPAYMENT IS MADE OF MONEY SO ADVANCED BY ANY PERSON.—If any sum or sums shall at any time be repaid by any such company or body as last aforesaid in respect of any such sum which may have been so advanced or paid by virtue of such execution or diligence, the said company or body shall forthwith make or cause to be made a return to such office as aforesaid, specifying the amount of such repayment, in the form in schedule (F.) to this Act annexed.

13. ON DEATH, RESIGNATION, OR REMOVAL OF OFFICER APPOINTED TO SUE AND BE SUED ON BEHALF OF COMPANY OR BODY, ANOTHER TO BE APPOINTED AND RETURN MADE.—In case of the death or resignation or removal of any officer appointed to sue and be sued on behalf of any company or body to be formed in pursuance of any of the provisions of this Act, the said company or body shall forthwith appoint in his stead another officer to sue and be sued on behalf of such company or body, and shall, within three calendar months after the death, resignation, or removal of such officer as aforesaid, make or cause to be made a return to the said office as aforesaid, containing as well the name and description of the person who has ceased to be such officer in manner aforesaid as the name and description of the officer who has been appointed to sue and be sued on behalf of such company or body; such return to be made in the form in schedule (G) to this Act annexed.

14. RETURNS HOW TO BE SIGNED AND VERIFIED—5 & 6 WILL. 4, c. 62.—All returns to be made in manner aforesaid by such company or body shall be signed by one of such officers, and shall be verified by a declaration of such officer made pursuant to the provisions of the statute of the fifth year of his late Majesty's reign, intituled "An Act . . . to make provisions for the abolition of unnecessary oaths," except that if there shall be no such officer, or such officer shall refuse to act, then such return shall be signed and verified as aforesaid by some member of the said company or body.

S. 14 *in part rep.* 53 *&* 54 *Vict. c.* 51 (*S.L.R.*).

15. RETURN OF NAMES OF MEMBERS, &c. NOT TO BE RENDERED INVALID BY UNINTENTIONAL ERROR.—Any return to be made in manner aforesaid of the name or place of abode of any original member of such company or body, or of any person to or in whom any share in such company or body shall be transferred or become vested, shall not be rendered invalid for the purposes of this Act by any error or omission in the same, if the said company or body shall, within one calendar month after information of such error or ommission shall be received by such company or body, cause a correct return to be made to the said office as aforesaid in the form in schedule (F.) to this Act annexed: Provided always, that this clause shall not invalidate or prejudice any intermediate transaction or matter whatsoever which shall have bonâ fide taken place or proceeded upon the faith of such erroneous or defective return, nor shall the benefit of this clause extend to any error or omission which shall be fraudulent.

16. OFFICE TO WHICH RETURNS SHALL BE MADE IN ENGLAND, SCOTLAND, AND IRELAND RESPECTIVELY.—Where the principal or only place for carrying on the business of any such company or body as aforesaid shall be situated in any part of England or Wales, the returns herein-before directed shall be made to the enrolment office of the Court of Chancery in England; and where such principal or only place for carrying on such business shall be situate in any part of Scotland, such returns shall be made to his Majesty's general registry office at Edinburgh; and where such principal or only place for carrying on such business shall be situated in any part of Ireland, such returns shall be made to the enrolment office of the Court of Chancery in Ireland.

17. By whom Returns are to be registered.—All such returns as are herein-before directed to be made to the enrolment office of the Court of Chancery in England shall be registered by the clerks of enrolments in Chancery, or their deputy, and all such returns as are herein-before directed to be made to the general registry office at Edinburgh shall be registered by the lord clerk register or his deputy, and all such returns as are herein-before directed to be made to the enrolment office of the Court of Chancery in Ireland shall be registered by the clerks of enrolments in Chancery in Ireland, or their deputy, in books to be by them respectively kept for that purpose; and an alphabetical index shall be kept of the names of such companies or bodies, with references to such returns; and there shall be paid for the registering of each return a fee of sixpence per folio, and no more; and any person shall be at liberty to inspect such books and index, and there shall be paid for such inspection a fee of one shilling, and no more; and any person shall be at liberty to require a copy of any such return, to be certified by the said clerks or their deputy, and there shall be paid for such certificate a fee of one shilling and sixpence for each folio of such copy, and no more; and the day of the registration of every return to be made in pursuance of this Act shall be written on such return by the said clerks or their deputy.

18. Certified Copy of such Return, &c. to be received in Evidence.—A copy, so certified as aforesaid, of such return, including the date to be marked on such return, shall be received in evidence in all proceedings, whether civil or criminal, and shall also be received as evidence of the day of the registering thereof.

19. Regulations as to Forms of Returns and mode of keeping the Register, &c. by whom to be made.—Such orders and directions as to the forms of the returns to be made in pursuance of this Act, and the mode of keeping the register, and of making the index thereof, and of any other matters incidental thereto, as may be deemed expedient, may from time to time be made, altered, or varied as follows; that is to say, as regards the registration to be made in the enrolment office in the Court of Chancery in England, by the lord chancellor, lord keeper, or first lord commissioner of the great seal, and the master of the rolls jointly; as regards the registration to be made in the general registry office in Edinburgh, by the lord clerk register and lords of council and session jointly; and as regards the registration to be made in the Court of Chancery in Ireland, by the lord chancellor of Ireland and master of the rolls in Ireland jointly.

20. No person entitled to share in Profits till registered as a Member.—No person becoming a member of any such company or body by the transfer of any share therein, or otherwise, shall be entitled to sue for or recover any share of the profits thereof, unless and until a return of the transfer or other fact whereby he shall so become a member shall be registered pursuant to the provisions herein-before contained.

21. Person ceasing to be a Member to continue liable till Transfer, &c. is registered.—Any person ceasing to be a member of any such company or body, whether by the transfer of any share therein, or by death or otherwise, shall be considered for all purposes of liability as continuing a member of such company or body until a return of the transfer or other fact whereby he shall have so ceased to be a member shall be registered pursuant to the provisions herein-before contained.

22. Proceedings commenced in the Name of Officer, &c. not to be abated by his Death, &c. or by change of Members of Company.—No action, suit, or proceeding, whether civil or criminal, commenced either by or against any such company or body (whether in the name of one of the officers appointed to sue and be sued as aforesaid, or of some member of such company or body, in the case and in manner aforesaid), shall be abated or prejudiced by the death or by any act of such officer or person, or by the resignation or removal of such officer, either before or after the commencement of such action, suit, or proceeding, or by any change in the members of such company or body by the transfer of shares or otherwise, but the same shall be continued in the name of such officer or member (as the case may be) notwithstanding such death or act, or such resignation or removal, and notwithstanding such change in the members of such company or body.

23. Evidence of Officer or of Member of Company admissible.—In all such actions, suits, and other proceedings, whether civil or criminal, the evidence of any such officer as aforesaid, or of any member of such company or body, shall be admissible in the like manner as if such officer or member were not an officer or member of such company or body.

24. Effect of Judgments against Officers, &c. of Company.—All judgments, decrees, interlocutors, and orders obtained in any such actions, suits, or other proceedings as aforesaid against such officer or member in manner aforesaid, whether such member or officer respectively be party to such actions, suits, or proceedings as plaintiff, pursuer, petitioner, or defendant or defender, shall have the same effect against the property and effects of such company or body, and also (to the extent herein-after mentioned) against the persons, property, and effects of the individual existing or former members thereof respectively, as if such judgments, decrees, interlocutors, or orders had been obtained against such company or body in suits or proceedings to which all the persons liable as existing or former members of such company or body had been parties; and execution or diligence, or executions or diligences, shall be issued thereon accordingly: Provided nevertheless, that where the extent per share of the liability of the individual members shall have been limited by any letters patent as aforesaid, no such execution or diligence shall be issued against any such individual existing and former member of such company or body as aforesaid for a greater sum than the residue, if any, of the amount for which, by virtue of such letters patent as aforesaid, such individual member shall be liable in respect of the share or shares then or theretofore held by him in the said company or body after deducting therefrom the amount, if any, which shall appear by such register as aforesaid to have been advanced and paid in respect of such shares or any of them by himself or herself, or any previous or subsequent holder of the same shares or any of them, or the representatives of any such holder, under or by virtue of any former execution or diligence, and not repaid at the time of issuing such subsequent execution or diligence.

25. Bankruptcy of Officer, &c. of Company not to affect Company or Liabilities of Members.—The bankruptcy, insolvency, or stopping payment of any officer or member of such company or body in his individual capacity shall not be construed to be the bankruptcy, insolvency, or stopping payment of such company or body; and the property and effects of such company or body, and the persons, property, and effects of the individual members or other individual members thereof (as the case may be), shall, notwithstanding such bankruptcy, insolvency, or stopping payment, be liable to execution or diligence in the same manner as if such bankrupty, insolvency, or stopping payment had not taken place.

26. Service of Notices, &c. on the Company.—In all cases wherein it may be necessary for any person to serve any summons, demand, or notice, or any writ or other proceeding at law or in equity, or otherwise, upon the said company or body, service thereof respectively on the clerk of the said company or body, or by leaving the same at the head office for the time being of the said company or body, or in case such clerk of the said office shall not be found or known, then service thereof on any agent or officer employed by the said company or body, or by leaving the same at the usual place of abode of such agent or officer, shall be deemed good and sufficient service of the same respectively on the said company or body.

27. Service of Notices, &c. by the Company.—In all cases wherein it may be necessary for the said company or body to give any summons, demand, or notice of any kind whatsoever to any person or corporation, under the provisions or directions contained in this Act, such summons, demand, or notice may be given in writing, signed by the clerk, attorney, or solicitor for the time being of the said company or body, without being required to be under the common seal of the said company or body.

28. Determination of Company not to prevent the winding up of their affairs. —In case of the determination of such company or body such company or body shall nevertheless be considered as subsisting and to be in all respects subject to the provisions of this Act, so long and so far as any matters relating to such company or body shall remain unsettled, to the end and intent that such company or body may do all things necessary to the winding-up of the concerns thereof, and that it may be sued and sue under the provisions of this Act in respect of all matters relating to such company or body.

29. Duration of Charters of Incorporation may be limited.—[1] It shall be lawful for her Majesty, in any charter of incorporation to be hereafter granted, to limit the duration thereof for any term or number of years, or for any other period whatsoever; and also in any charter of incorporation (whether in perpetuity or for any term or period), either by reference to this Act or otherwise, to make the corporation thereby formed,

and the officers and members thereof, subject to all of the provisions, liabilities, and directions herein-before authorized to be imposed on or required from any unincorporated company or body, or its officers or members, and also to confer on such corporation or its members and officers all the powers or privileges herein-before authorized to be conferred on any unincorporated company or body, or its officers or members; and all the powers, provisions, clauses, matters, and things herein-before contained in reference to unincorporated companies or bodies shall accordingly in such case, and so far as the same may be applicable, be considered to belong and apply to such corporation.

[1] *Charters granted under this section may be renewed or extended,* 47 & 48 *Vict. c.* 56.

30. Limitation as to exemptions to be granted to Companies by Letters Patent.—Provided always, that nothing in this Act contained shall authorize or be construed to authorize her Majesty, by any such letters patent, to exempt any company or body of persons associated as aforesaid from the necessity of entering into a deed of partnership, from making the return of the patent to the enrolment office of the Court of Chancery, from the necessity of carrying into execution the provisions of this Act in respect to change of name or style of the company or body associated, in respect to the cessation or to the addition or to the change of name of any of the individuals of the company, or to the transfer of shares and to the notices to be given thereof, or to the payment of any sum by any shareholder on account of any preferment against such company or body, or to the returns to be made to the enrolment office of such payment, or of the repayment thereof, or from making a return to the said office of the name of the officer appointed by said company to sue and be sued on its behalf, in case of the death, resignation, or removal of the one registered, or to exempt any company or body so associated from the provisions of this Act in relation to the period at which its several members shall become entitled or shall cease to share in the profits thereof, the whole as required by the provisions of this Act.

31. Act not to affect existing Privileges.—Provided always, that nothing in this Act contained shall authorize or be construed to authorize the grant to any company or body of persons of any privilege in derogation of any exclusive privileges now enjoyed by any company or corporation under any Act or Acts of Parliament.

32. Notice of Application for Letters Patent to be inserted in the London Gazette, &c.—Whenever an application shall be made to her Majesty to grant letters patent or a charter of incorporation to any company or body of persons associated together for any purpose of trade, and such application shall have been referred by her Majesty to the committee of privy council for trade and plantations, then, before any report shall be made to her Majesty, and before any such letters patent or charter shall be granted, notice of such application shall be inserted by the parties applying three several times in the London Gazette and in one or more of the newspapers circulating within the county in which it is proposed that the principal place of business of such company shall be established, at intervals of not less than one week.

SCHEDULES to which this Act refers.

Schedule (A.)

Return made pursuant to Statute Vict.

Date of Letters Patent.	Name of Company or Body.	Business or Purpose.	Place [or principal Place, if more than One,] of Business.	Total Number of Shares.	Liability in respect of each Share.

[Names and places of abode of all the members, and the distinctive numbers of the shares which each of them holds.]

[Names and descriptions of the officers appointed to sue and be sued on behalf of the company or body.]

I (one of the above-named officers) do solemnly and sincerely declare that the above is a true return; and I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of an Act made and passed in the fifth year of the reign of his late Majesty, intituled "An Act," &c.

Dated this day of 18 .

[Declared, &c.] [Signature.]

SCHEDULE (B.)

RETURN made pursuant to Statute Vict.

CHANGE of Place of Business.

Name of Company or Body.	Business or Purpose.	Former Place [or principal Place, if more than One,] of Business.	Present Place, [or principal Place] of Business.

I [&c. as before.]

[Date.]

[Declared, &c.] [Signature.]

SCHEDULE (C.)

RETURN made pursuant to Statute Vict.

CHANGE of Members.

Name of Company or Body.	Business or Purpose.	Place [or Principal Place, if more than One,] of Business.

[Names and places of abode of all persons having ceased to be members (except by transfer of shares) since the last return. Dated the day of .]

[Names and places of abode of all persons who have become members (except by transfer of shares) since the last return. Dated the day of .]

[Former names and places of abode of persons whose names have been changed.]

[Present names and places of abode of persons whose names have been changed.]

I [&c. as before.]

[Date.]

[Declared, &c.] [Signature.]

SCHEDULE (D.)

RETURN made pursuant to Statute Vict.

TRANSFER of Shares.

Name of Company or Body.	Business or Purpose.	Place [or principal Place, if more than One,] of Business.	
Name and Place of Abode of Person by whom Transfer is made.	Name and Place of Abode of Person to whom Transfer is made.	The distinctive Numbers of the Shares transferred.	Date of Transfer.

I [&c. as before.]
[Date.]
[Declared, &c.] [Signature.]

SCHEDULE (E.)

RETURN made pursuant to Statute Vict.

PAYMENT by individual Member.

Name of Company or Body.	Business or Purpose.	Place [or principal Place, if more than One,] of Business.	
Name and Place of Abode of individual Member.	Distinctive Numbers of the Shares in respect of which Payment is made.	Sum paid in respect of each Share.	Total Amount paid under Exemptions or Diligence.

I [&c. as before.]
[Date.]
[Declared, &c.] [Signature.]

SCHEDULE (F.)

RETURN made pursuant to Statute Vict.

PAYMENT to individual Members.

Name of Company or Body.	Business or Purpose.	Place [or principal Place, if more than One,] of Business.	
Name and Place of Abode of individual Member.	Distinctive Numbers of the Shares in respect of which Repayment is made.	Sum repaid in respect of each Share.	Total Amount repaid to individual Member.

I [&c. as before.]
[Date.]
[Declared, &c.] [Signature.]

SCHEDULE (G.)

RETURN made pursuant to Statute Vict.

CHANGE of Officer.

Name of Company or Body.	Business or Purpose.	Place [or principal Place, if more than One,] of Business.

[Name and description of the person who has ceased to be an officer to sue and be sued on behalf of the company or body since the last return. Dated .]
[Name and description of the officer appointed to sue and be sued on behalf of the company or body since the last return. Dated .]
I [&c. as before]
[Date.]
[Declared, &c.] [Signature.]

SCHEDULE (H.)

RETURN made pursuant to Statute Vict.

CORRECTED Return.

[Copy of former incorrect Return.]

(Copy.)

Amended Return with correct Names and Descriptions [in such of the preceding Forms as are applicable to the Case under the Provisions of the foregoing Act.]
I [&c. as before.]
[Date.]
[Declared, &c.] [Signature.]

CHAPTER LXXXIII.

THE PARLIAMENTARY DOCUMENTS DEPOSIT ACT, 1837 (*Short Titles Act*, 1896).

AN ACT to compel Clerks of the Peace for Counties and other Persons to take the Custody of such Documents as shall be directed to be deposited with them under the Standing Orders of either House of Parliament.

[17th July 1837.]

Whereas the Houses of Parliament are in the habit of requiring that, previous to the introduction of any Bill into Parliament for making certain bridges, turnpike roads cuts, canals, reservoirs, aqueducts, waterworks, navigations, tunnels, archways, railways, piers, ports, harbours, ferries, docks, and other works, to be made under the authority of Parliament, certain maps or plans and sections, and books and writings, or extracts or copies of or from certain maps, plans, or sections, books and writings, shall be deposited in the office of the clerk of the peace for every county, riding, or division in England or Ireland, or in the office of the sheriff clerk of every county in Scotland, in which such work is proposed to be made, and also with the parish clerk of every parish in England, the schoolmaster of every parish of Scotland, or in royal burghs with the town clerk, and the postmaster of the post town in or nearest to every parish in Ireland, in which such work is intended to be made, and with other persons: And whereas it is expedient that such maps, plans, sections, books, writings, and copies or extracts of and from the same, should be received by the said clerks of the peace, sheriff clerks, parish clerks, schoolmasters, town clerks, postmasters, and other persons, and should remain in their custody for the purposes hereinafter mentioned:

1. CLERKS OF THE PEACE, &C. TO RECEIVE THE DOCUMENTS HEREIN MENTIONED, AND RETAIN THEM FOR THE PURPOSES DIRECTED BY THE STANDING ORDERS OF THE HOUSES OF PARLIAMENT.—Whenever either of the Houses of Parliament shall, by its standing orders already made or hereafter to be made, require that any such maps, plans, sections, books, or writings, or extracts or copies of the same, or any of them, shall be deposited as aforesaid, such maps, plans, sections, books, writings, copies, and extracts shall be received by and shall remain with the clerks of the peace, sheriff clerks, parish clerks, schoolmasters, town clerks, postmasters, and other persons with whom the same shall be directed by such standing orders to be deposited, and they are hereby respectively directed to receive and to retain the custody of all such documents and writings so directed to be deposited with them respectively, in the manner, and for the purposes, and under the rules and regulations concerning the same respectively directed by such standing orders, and shall make such memorials and endorsements on and give such acknowledgments and receipts in respect of the same respectively as shall be thereby directed.

2. CLERKS OF THE PEACE, &C. TO PERMIT SUCH DOCUMENTS TO BE INSPECTED OR COPIED BY PERSONS INTERESTED.—All persons interested shall have liberty to, and the said clerks of the peace, sheriff clerks, parish clerks, schoolmasters, town clerks, and postmasters, and every of them, are and is hereby required, at all reasonable hours of the day, to permit all persons interested to inspect during a reasonable time and make extracts from or copies of the said maps, plans, sections, books, writings, extracts and copies of or from the same, so deposited with them respectively, on payment by each person to the clerk of the peace, sheriff clerk, clerk of the parish, schoolmaster, town clerk, or postmaster having the custody of any such map, plan, section, book, writing, extract, or copy, one shilling for every such inspection, and the further sum of one shilling for every hour during which such inspection shall continue after the first hour, and after the rate of sixpence for every one hundred words copied therefrom.

3. CLERKS OF THE PEACE, &C. FOR EVERY OMISSION TO COMPLY WITH THE PROVISIONS OF THIS ACT, SHALL BE LIABLE TO A PENALTY OF £5, TO BE RECOVERED IN A SUMMARY WAY.—In case any clerk of the peace, sheriff clerk, parish clerk, schoolmaster, town clerk, postmaster, or other person shall in any matter or thing refuse or neglect to comply with any of the provisions herein-before contained, every clerk of the peace, sheriff clerk, parish clerk, schoolmaster, town clerk, postmaster, or other person shall for every such offence forfeit and pay any sum not exceeding the sum of five pounds; and every such penalty shall, upon proof of the offence before any justice of the peace for the

county within which such offence shall be committed, or by the confession of the party offending, or by the oath of any credible witness, be levied and recovered, together with the costs of the proceedings for the recovery thereof, by distress and sale of the goods and effects of the party offending, by warrant under the hand of such justice, which warrant such justice is hereby empowered to grant, and shall be paid to the person or persons making such complaint; and it shall be lawful for any such justice of the peace, to whom any complaint shall be made of any offence committed against this Act, to summon the party complained of before him, and on such summons to hear and determine the matter of such complaint in a summary way, and on proof of the offence to convict the offender, and to adjudge him to pay the penalty or forfeiture incurred, and to proceed to recover the same, although no information in writing or in print shall have been exhibited or taken by or before such justice; and all such proceedings by summons without information shall be as good, valid, and effectual to all intents and purposes, as if an information in writing had been exhibited.

CHAPTER LXXXIV.

THE FORGERY ACT, 1837 (*Short Titles Act*, 1896).

AN ACT to abolish the Punishment of Death in Cases of Forgery.

[17th July 1837.]

. . . And whereas by an Act passed in the second and third years of his late Majesty's reign, intituled "An Act to transfer the management of certain "annuities on lives from the receipt of his Majesty's Exchequer to the manage- "ment of the commissioners for the reduction of the national debt, and to amend "an Act for enabling the said commissioners to grant life annuities, and annuities "for terms of years," it was amongst other things enacted, that if any person should forge, counterfeit, or alter, or should cause or procure to be forged, counterfeited, or altered, or should knowingly or wilfully act or assist in the forging, counterfeiting, or altering, any declaration, warrant, order, or other instrument, or any affidavit or affirmation required to be made by that Act, or by the commissioners for the reduction of the national debt, under any of the provisions of that Act, or under any authority given to them for that purpose; or should forge, counterfeit, or alter, or should cause or procure to be forged, counterfeited, or altered, or should knowingly or wilfully act or assist in the forging, counterfeiting, or altering, any certificate or order of any officer of the commissioners for the reduction of the national debt, or the name or names of any person or persons in or to any transfer of any annuity, or in or to any certificate, order, warrant, or other instrument for the payment of money for the purchase of any annuity under the provisions of that Act, or in or to any transfer or acceptance of any such annuity in the books of the commissioners for the reduction of the national debt, or in or to any receipt or discharge for any such annuity, or in or to any receipt or discharge for any payment or payments due or to become due thereon, or in or to any letter of attorney or other authority or instrument to authorize or purporting to authorize the transfer or acceptance of any annuities or any life annuity of whatsoever kind, or authorizing or purporting to authorize the receipt of any life annuity of whatsoever kind, granted under any of the Acts therein recited or that Act, or any payment or payments due or to become due thereon; or if any person should wilfully, falsely, and deceitfully personate any true and real nominee or nominees, or should wilfully utter, or deliver or produce to any person or persons acting under the authority of that Act, any forged register or copy of register of any birth, baptism, or marriage, or any forged declaration, affidavit, or affirmation, knowing the same to be forged, counterfeited, or altered, with intent to defraud his Majesty, or with intent to defraud any person or persons whomsoever; then and in every such case all and every person or persons so offending, and being lawfully convicted thereof, should be adjudged guilty of felony, and suffer death: . . . And whereas it is expedient that none of the herein-before mentioned offences should henceforth be punishable with death:

Preamble in part rep. 37 & 38 *Vict. c.* 35 (*S.L.R.*), *and* 51 & 52 *Vict. c.* 57 (*S.L.R.*).

1. Substitution of Transportation for punishment of Death in case of certain Offences.—If any person shall be convicted of any of the offences herein-before mentioned, such person shall not suffer death, or have sentence of death awarded against him or her for the same, but shall be liable . . . to be transported beyond the seas for life, ...

S. 1 *in part rep.* 55 & 56 *Vict. c.* 19 (*S.L.R.*).

[*S.* **2** *rep.* 54 & 55 *Vict. c.* 67 (*S.L.R.*). *S.* **3** *rep.* 56 & 57 *Vict. c.* 54 (*S.L.R.*). *S.* **4** *rep.* 53 & 54 *Vict. c.* 51 (*S.L.R.*). *S.* **5** *rep.* 37 & 38 *Vict. c.* 35 (*S.L.R.*).]

CHAPTER LXXXVIII.

The Piracy Act, 1837 (*Short Titles Act*, 1896).

An Act to amend certain Acts relating to the Crime of Piracy. [17th July 1837.]

[*Preamble recites* 28 *Hen.* 8, *c.* 15; 11 *Will.* 3, *c.* 7; 4 *Geo.* 1, *c.* 11; 8 *Geo.* 1, *c.* 24; 18 *Geo.* 2, *c.* 30.]

[*S.* **1** *rep.* 37 & 38 *Vict. c.* 35 (*S.L.R.*).]

2. Punishment of Piracy when Murder is attempted.—Whosoever, with intent to commit or at the time of or immediately before or immediately after committing the crime of piracy in respect of any ship or vessel, shall assault, with intent to murder, any person being on board of or belonging to such ship or vessel, or shall stab, cut, or wound any such person, or unlawfully do any act by which the life of such person may be endangered, shall be guilty of felony, ...

S. 2 *in part rep.* 53 & 54 *Vict. c.* 51 (*S.L.R.*).

3. Persons guilty of Piracy may be transported.—Whosoever shall be convicted of any offence which by any of the Acts herein-before referred to amounts to the crime of piracy, and is thereby made punishable with death, shall be liable . . . to be transported beyond the seas for the term of the natural life of such offender. . . . .

S. 3 *in part rep.* 55 & 56 *Vict. c.* 19 (*S.L.R.*).

4. Punishment of Accessories.—In the case of every felony punishable under this Act every principal in the second degree and every accessory before the fact shall be punishable . . . in the same manner as the principal in the first degree is by this Act punishable; and every accessory after the fact to any felony punishable under this Act shall, on conviction, be liable to be imprisoned for any term not exceeding two years.

S. 4 *in part rep.* 53 & 54 *Vict. c.* 51 (*S.L.R.*).

[*S.* **5** *rep.* 56 & 57 *Vict. c.* 54 (*S.L.R.*). *S.* **6** *rep.* 53 & 54 *Vict. c.* 51 (*S.L.R.*). *S.* **7** *rep.* 37 & 38 *Vict. c.* 35 (*S.L.R.*); *see* 37 & 38 *Vict. c.* 96, *s.* 2.]

CHAPTER XCI.

The Punishment of Offences Act, 1837 (*Short Titles Act*, 1896).

An Act for abolishing the Punishment of Death in certain Cases. [17th July 1837.]

Whereas by an Act passed in the first year of the reign of King George the First, intituled "An Act for preventing tumults and riotous assemblies, and for the more "speedy and effectual punishing the rioters," it was amongst other things enacted, that

if any persons to the number of twelve or more, being unlawfully, riotously, and tumultuously assembled together to the disturbance of the public peace, and being required or commanded by any one or more justice or justices of the peace, or by the sheriff of the county or his under sheriff, or by the mayor, bailiff or bailiffs, or other head officer or justice of the peace of any city or town corporate where such assembly should be, by proclamation to be made in the King's name in the form therein-after directed to disperse themselves, and peaceably to depart to their habitations or to their lawful business, should to the number of twelve or more (notwithstanding such proclamation made) unlawfully, riotously, and tumultuously remain or continue together by the space of one hour after such command or request made by proclamation, that then such continuing together to the number of twelve or more after such command or request made by proclamation should be adjudged felony without benefit of clergy, and the offenders therein should be adjudged felons, and should suffer death as in case of felony without benefit of clergy; and it was also by the said Act further enacted, that if any person or persons did or should, with force and arms, wilfully and knowingly oppose, obstruct, or in any manner wilfully and knowingly let, hinder, or hurt any person or persons that should begin to proclaim or go to proclaim according to the proclamation thereby directed to be made, whereby such proclamation should not be made, that then every such opposing, obstructing, letting, hindering, or hurting such person or persons so beginning or going to make such proclamation as aforesaid should be adjudged felony without benefit of clergy, and the offenders therein should be adjudged felons, and should suffer death as in case of felony without benefit of clergy; and that also every such person or persons, so being unlawfully, riotously, and tumultuously assembled to the number of twelve as aforesaid, or more, to whom proclamation should or ought to have been made if the same had not been hindered as aforesaid, should likewise, in case they or any of them to the number of twelve or more should continue together and not disperse themselves within one hour after such let or hindrance so made, having knowledge of such let or hindrance so made, should be adjudged felons, and should suffer death as in case of felony without benefit of clergy: And whereas by an Act passed in the twenty-fifth year of the reign of King George the Second, intituled "An Act for better preventing the horrid crime of murder," and also by an Act passed in the Parliament of Ireland in the thirty-first year of the reign of King George the Third, intituled "An Act to prevent the horrid crime of murder, and to "repeal an Act passed in the tenth year of King Henry the Seventh, intituled 'An "Act to make murder of malice prepense treason,' and for repealing an Act made in "the ninth year of Queen Anne, intituled 'An Act for bringing an appeal in case of "murder, notwithstanding the statute of Henry the Seventh, whereby murder is made "high treason,'" it was amongst other things enacted, that if any person or persons whatsoever should by force set at liberty or rescue, or attempt to rescue or set at liberty, any person out of prison who shall be committed for or found guilty of murder, or rescue or attempt to rescue any person convicted of murder going to execution or during execution, every person so offending should be deemed, taken, and adjudged to be guilty of felony, and should suffer death without benefit of clergy: And whereas by an Act passed in the thirty-seventh year of the same reign, intituled "An Act for the better "prevention and punishment of attempts to seduce persons serving in his Majesty's "forces by sea or land from their duty and allegiance to his Majesty, or to incite them "to mutiny or disobedience," and also by an Act passed in the Parliament of Ireland in the same year, and bearing the like title, it was amongst other things enacted, that any person or persons who should maliciously and advisedly endeavour to seduce any person or persons serving in his Majesty's forces by sea or land from his or their duty and allegiance to his Majesty, or to incite or stir up any such person or persons to commit any act of mutiny, or to make or endeavour to make any mutinous assembly, or to commit any traitorous or mutinous practice whatsoever, should, on being legally convicted of such offence, be adjudged guilty of felony, and should suffer death as in cases of felony without benefit of clergy: And whereas by an Act passed in the fifty-second year of the same reign, intituled "An Act to render more effectual an Act passed "in the thirty-seventh year of his present Majesty, for preventing the administering or "taking unlawful oaths," it was amongst other things enacted, that every person who should, in any manner or form whatsoever, administer or cause to be administered, or be aiding or assisting at the administering of any oath or engagement purporting or intend-

ing to bind the person taking the same to commit any treason or murder, or any felony punishable by law with death, should, on conviction thereof by due course of law, be adjudged guilty of felony, and suffer death as a felon without benefit of clergy; and it was by the said Act further enacted, that persons aiding and assisting at the administering of any such oath or engagement as aforesaid, and persons causing any such oath or engagement to be administered, though not present at the administering thereof, should be deemed principal offenders, and should be tried as such, and on conviction thereof by due course of law should be adjudged guilty of felony, and should suffer death as felons without benefit of clergy, although the persons or person who actually administered such oath or engagement, if any such there should be, should not have been tried or convicted: . . . And whereas by an Act passed in the fifth year of the reign of King George the Fourth, intituled "An Act to amend and consolidate "the laws relating to the abolition of the slave trade," it was amongst other things enacted, that if any subject or subjects of his Majesty, or any person or persons residing or being within any of the dominions, forts, settlements, factories, or territories then or thereafter belonging to his Majesty, or being in his Majesty's occupation or possession, or under the government of the united company of merchants of England trading to the East Indies, should, except in such cases as are in and by that Act permitted, upon the high seas, or in any haven, river, creek, or place where the admiral has jurisdiction, knowingly and wilfully carry away, convey, or remove, or aid or assist in carrying away, conveying, or removing, any person or persons as a slave or slaves, or for the purpose of his, her, or their being imported or brought as a slave or slaves into any island, colony, country, territory, or place whatsoever, or for the purpose of his, her, or their being sold, transferred, used, or dealt with as a slave or slaves, or should, except in such cases as are in and by that Act permitted, upon the high seas or within the jurisdiction aforesaid, knowingly and wilfully ship, embark, receive, detain, or confine, or assist in shipping, embarking, receiving, detaining, or confining on board any ship, vessel, or boat, any person or persons for the purpose of his, her, or their being carried away, conveyed, or removed as a slave or slaves, or for the purpose of his, her, or their being imported or brought as a slave or slaves into any island, colony, country, territory, or place whatsoever, or for the purpose of his, her, or their being sold, transferred, used, or dealt with as a slave or slaves, then and in every such case the person or persons so offending should be deemed and adjudged guilty of piracy, felony, and robbery, and being convicted thereof should suffer death without benefit of clergy, and loss of lands, goods, and chattels, as pirates, felons, and robbers upon the seas ought to suffer: . . . And whereas it is expedient that none of the herein-before mentioned offences should henceforth be punishable with death:

Preamble in part rep. 37 & 38 *Vict. c.* 35 (*S.L.R.*).

1. Substitution of Transportation for Punishment of Death in case of certain Offences.—If any person shall be convicted of any of the offences herein-before mentioned, such person shall not suffer death or have sentence of death awarded against him or her for the same, but shall be liable . . . to be transported beyond the seas for the term of the natural life of such person, ...

S. 1 *in part rep.* 55 & 56 *Vict. c.* 19 (*S.L.R.*).

[*S.* **2** *rep.* 56 & 57 *Vict. c.* 54 (*S.L.R.*). *S.* **3** *rep.* 53 & 54 *Vict. c.* 51 (*S.L.R.*). *Ss.* **4**, **5** *rep.* 37 & 38 *Vict. c.* 35 (*S.L.R.*).]

1 & 2 VICTORIA, 1837-38.

CHAPTER II.

THE CIVIL LIST ACT, 1837 (*Short Titles Act*, 1896).

AN ACT for the Support of Her Majesty's Household, and of the Honour and Dignity of the Crown of the United Kingdom of Great Britain and Ireland. [23rd December 1837.]

Most gracious Sovereign,

Whereas an Act was passed in the Parliament of Great Britain . . . in the twenty-second year of the reign of his said late Majesty, intituled "An Act for enabling "his Majesty to discharge the debt contracted upon the civil list revenues, and for "preventing the same from being in arrear for the future, by regulating the mode of "payments out of the said revenues, and by suppressing or regulating certain offices "therein mentioned, which are now paid out of the revenues of the civil list" . . . and another Act was passed in the Parliament of Ireland, in the thirty-third year of the reign of his said late Majesty, intituled "An Act for the support of the honour and "dignity of his Majesty's Crown in Ireland, and for granting to his Majesty a civil "list establishment, under certain provisions and regulations"; and another Act was passed in the fifty-sixth year of the reign of his said late Majesty, intituled "An Act "for the better regulation of the civil list"; . . . and another Act was passed in the first year of the reign of his late Majesty King William the Fourth, intituled "An "Act to repeal certain of the duties on cider in the United Kingdom, and on beer and "ale in Great Britain, and to make other provisions in relation thereto" . . . And whereas your Majesty has been graciously pleased to signify to your faithful commons in Parliament assembled, that your Majesty placed unreservedly at their disposal those hereditary revenues which were transferred to the public by your Majesty's immediate predecessors, and that, desirous the expenditure in this as in every other department of the government should be kept within due limits, your Majesty felt confident that your faithful commons would gladly make adequate provision for the support of the honour and dignity of the Crown: Your Majesty's most dutiful and loyal subjects, the commons of the United Kingdom of Great Britain and Ireland in Parliament assembled, with hearts full of the warmest duty and gratitude, are desirous that a certain and competent revenue for defraying the expences of your Majesty's household, and supporting the honour and dignity of the Crown of the United Kingdom, during your Majesty's life (which God long preserve), may be settled upon your Majesty, as a testimony of our unfeigned affection to your sacred person, by whose happy succession to the throne your Majesty's subjects have the strongest assurance that the religion, laws, and liberties of this realm will be continued, and that your Majesty's said subjects and their posterity may, through the divine goodness, enjoy every blessing under your Majesty's auspicious reign, have therefore freely resolved to grant unto you, our most gracious sovereign lady Queen Victoria, a certain revenue payable out of the consolidated fund of the United Kingdom of Great Britain and Ireland, and that the produce of the said hereditary revenues now payable to your Majesty should be carried to and form part of the said consolidated fund:

Preamble in part rep. 53 & 54 *Vict. c.* 51 (*S.L.R.*).

1. POWERS OF ACTS AS TO HEREDITARY REVENUES TO REMAIN IN FORCE.—All powers, authorities, provisions, regulations, and clauses contained in the said recited Acts, or any or either of them, or in any other Act or Acts of the Parliaments of Great Britain or of Ireland, or of the United Kingdom of Great Britain and Ireland, in force at the time of the decease of his late Majesty King William the Fourth, or at the time of the passing of this Act, as to the said hereditary rates, duties, payments, and revenues in any and every part of the United Kingdom of Great Britain and Ireland, and the levying and collecting the payment or keeping separate accounts thereof, or computing the amount of any such rates, duties, payments, or revenues respectively, shall be and the same are hereby declared and enacted to be in full force and effect, and shall be used and applied to all the hereditary rates, duties, payments, and revenues by this Act

carried to the consolidated fund of the United Kingdom of Great Britain and Ireland, and for the levying, collecting, paying, or keeping separate accounts of or computing the amount of all or any such rates, duties, payments, and revenues, as fully and effectually to all intents and purposes as if the said powers, authorities, provisions, regulations, and clauses were severally and separately re-enacted in the body of and made part of this Act.

2. Hereditary Revenues carried to the Consolidated Fund during the Life of her Majesty—After her Demise the Hereditary Revenues to be payable to her Successors.—The produce of all the hereditary rates, duties, payments, and revenues in England, Scotland, and Ireland respectively, and also the small branches of the hereditary revenue, and the produce of the hereditary casual revenues arising from any droits of admiralty or droits of the Crown, . . . and from the surplus revenues of Gibraltar, or any other possession of her Majesty out of the United Kingdom, and from all other casual revenues arising either in the foreign possessions of her Majesty or in the United Kingdom, which were surrendered by his said late Majesty King William the Fourth for his life, and which upon the demise of his said late Majesty became payable to her present Majesty, which have accrued since the decease of his said late Majesty, or which shall accrue during the life of her present Majesty (whom God long preserve), and which shall not have been applied and distributed in the payment of any charge thereupon respectively (save and except the hereditary duties of excise on beer, ale, and cider in Great Britain), shall be carried to and made part of the consolidated fund of the United Kingdom of Great Britain and Ireland; and from and after the decease of her present Majesty (whom God long preserve) all the said hereditary revenues shall be payable and paid to Her Majesty's heirs and successors.

S. 2 *in part rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*).

3. The clear yearly sum of L.385,000 to be paid out of the Consolidated Fund for the support of her Majesty's Household and of the Honour and Dignity of the Crown, and for payment of Charges in Schedule.—For the support of Her Majesty's household, and of the honour and dignity of the Crown, and for the payment of the charges on the first, second, third, fourth, and sixth classes in the schedule to this Act annexed, there shall be granted to her Majesty during her life a net yearly revenue of three hundred and eighty-five thousand pounds; and the said revenue shall be charged on and made payable out of the consolidated fund of the United Kingdom of Great Britain and Ireland, and shall . . be paid to her present Majesty during her life (which God long preserve), with preference to all other payments which have heretofore been or which shall or may hereafter be charged upon the same, to be paid quarterly, (that is to say,) on the thirty-first day of March, the thirtieth day of June, the thirtieth day of September, and the thirty-first day of December in each year, by even and equal portions . . . and the Treasury shall and they are hereby authorised on and during every succeeding quarter to cause the said yearly revenue to be issued and applied from time to time, daily, weekly, or otherwise, as soon as the same can be satisfied for the uses and purposes by this Act appointed, out of the monies arisen or to arise as aforesaid; so as by the said daily, weekly, or other payments one fourth part of such yearly revenue or sum of money be not exceeded in, for, or in respect of each quarter, and so that upon every of the said quarterly days the whole amount then due thereupon be computed, made up, or satisfied according to the true intent and meaning of this Act.

S. 3 *in part rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*).

[*S.* **4** *rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*).]

5. L.1200 a year to be issued to defray the charge of Pensions.—And whereas it is expedient to make provision, at the rate of one thousand two hundred pounds a year for each and every succeeding year of her Majesty's reign, to defray the charge of such pensions as may be granted by her Majesty chargeable on her Majesty's civil list revenues: Be it therefore enacted, that it shall be lawful for the Treasury to charge upon and issue quarterly out of the said consolidated fund, as an addition to the sum hereby granted for her Majesty's civil list, such sums as shall be required to defray the charge of such pensions as may be granted as aforesaid, at the rate of one thousand two hundred pounds a year for every succeeding year of her said reign.

6. Restriction on grants of Pensions—List of Pensions granted to be laid before Parliament yearly.—And whereas it was resolved by the Commons House of Parliament, on the eighteenth day of February one thousand eight hundred and thirty-four, "that it is the bounden duty of the responsible advisers of the Crown to "recommend to his Majesty for grants of pensions on the civil list such persons only as "have just claims on the royal beneficence, or who by their personal services to the "Crown, by the performance of duties to the public, or by their useful discoveries in "science and attainments in literature and the arts, have merited the gracious considera-"tion of their Sovereign and the gratitude of their country": And whereas it is expedient that provision should be made by law for carrying into full effect the said resolution, and for giving an assurance to Parliament that the responsible advisers of the Crown have acted in conformity therewith: Be it therefore enacted, that the pensions which may hereafter be charged upon the civil list revenues shall be granted to such persons only as have just claims on the royal beneficence, or who by their personal services to the Crown, by the performance of duties to the public, or by their useful discoveries in science and attainments in literature and the arts, have merited the gracious consideration of their Sovereign and the gratitude of their county; and that a list of all such pensions granted in each year ending the twentieth day of June shall be laid before Parliament within thirty days after the said twentieth day of June in each year, if Parliament shall be then sitting, but if Parliament shall not be then sitting, then within thirty days after the next meeting of Parliament.

7. Hereditary Duties on Ale, Beer, and Cider not to be collected during continuance of this Act; but to revive if her Majesty's Successor shall resume possession of Hereditary Revenues.—[*Recital of* 11 *Geo.* 4 *&* 1 *Will.* 4, *c.* 51, *s.* 4] During the continuance of this Act the said hereditary duties on ale, beer, and cider shall not be charged, collected, or paid, or be chargeable or payable; . . . : Provided always, that if the heir or successor of her Majesty (whom God long preserve) shall signify his or her royal will and pleasure, in manner herein-after provided, to resume the possession of the several hereditary revenues of the Crown, the said hereditary duties on ale, beer, and cider shall from thenceforth revive and be again charged, collected, and paid for the use of such heir and successor, and his or her heirs and successors in the manner provided by the said recited Act.

S. 7 *in part rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*).

8. Appropriation of Sums out of the Quarterly Revenues of the Civil Lists, for defraying charges upon the classes thereof.—[*Recital of* 22 *Geo.* 3, *c.* 82, *s.* 31] It shall be lawful for the Treasury, and they are hereby required, at the commencement of every quarter, or within thirty days from the commencement of each quarter, by warrant to direct what sums shall respectively be set apart and appropriated in the receipt of her Majesty's Exchequer, out of the quarterly revenues of the civil list, for the purpose of defraying the several charges upon the respective classes thereof, but so as that the sum to be appropriated to any one class do not exceed one fourth part of the estimated annual amount of that class as specified in the schedule to this Act, together with any saving which may have accrued upon the said class in the preceding quarter; and the several and respective sums in the said warrant directed to be set apart and appropriated shall be so set apart by the comptroller general of her Majesty's Exchequer, and be appropriated to the respective classes accordingly; and each and every sum so set apart and appropriated shall in the first place be applied in payment of all the unsatisfied charges of every description of the class in respect of which such appropriation shall have been made, in preference to any other charges whatever upon her Majesty's civil list revenues; and no part thereof shall, on any account whatever, be applied, until after the termination of each year ending on the thirty-first day of December, for any other purpose, or in aid of any other of the classes of the civil list, or of any other of the charges thereon, any thing contained in the said recited Act of the twenty-second year of the reign of his late Majesty King George the Third, or any other Act, to the contrary notwithstanding.

9. Quarterly Savings in any Class shall be carried to account and at the end of the year the Treasury may direct the same to be applied in aid of other Classes, &c.—Provided always, that if any saving or surplus shall arise in any quarter in respect of any money appropriated for defraying the charges of any particular class, so as that the sum appropriated thereto shall be more than sufficient for the full

and complete payment of the charges thereon, such quarterly saving or surplus shall in every such case be carried forward in the Exchequer to the account and credit and be applied for the purposes of the class in which it shall have arisen until the thirty-first day of December in every year; and whenever any such saving or surplus remaining at the end of the year shall have arisen in any of the classes of the civil list, then it shall be lawful for the Treasury to direct the same to be applied in aid of the charges or expenses of any other class (except the fifth class, or of any charge or charges upon her Majesty's civil list revenues, in such manner as may, under the circumstances, appear to be most expedient: Provided always, that the charge upon the fifth class shall in no case exceed the sum by this Act limited for that class.

10. In case of exceedings, particulars to be laid before Parliament.—Whenever the total charge upon the civil list from the thirty-first day of December in any one year to the thirty-first day of December in the succeeding year, on account of the first, second, third, fourth, and sixth classes, shall amount to more than the sum of four hundred thousand pounds, an account, stating the particulars of such exceeding, and the cause thereof, shall be submitted to Parliament within thirty days after the same shall have been ascertained, if Parliament shall be then sitting, but if Parliament shall not be then sitting, then the said account shall be presented within thirty days after the next meeting of Parliament.

11. Provisions of all former Civil List Acts to remain in force for the purposes of this Act, except as hereby altered.—[*Recital*] All the provisions, regulations, restrictions, clauses, matters, and things contained in the said recited Acts, or any or either of them, which were applicable and in force as to the civil list revenues at the time of the decease of his said late Majesty, shall, so far as the same are not altered, varied, or repealed by this Act, be, and remain and continue, and are hereby declared to be, in full force and effect as to the civil list revenue granted by this Act, and shall be used and applied, so far as the same are applicable, in relation to the issuing, paying, receiving, distribution, care, management, regulation, and accounting for the civil list revenue granted by this Act, as fully and effectually to all intents and purposes as if the same were severally, separately, and respectively repeated and re-enacted in the body of this Act and made part thereof.

12. This Act not to affect certain powers relating to the small branches of Hereditary Revenues, &c.—Nothing in this Act contained shall extend or be construed to extend in anywise to impair, affect, or prejudice any rights or powers of control, management, or direction, which have been or may be exercised by authority of the Crown or other lawful warrant relative to any leases, grants, or assurances of any of the said small branches of her Majesty's hereditary revenues, or to any suits or proceedings for recovery of the same, or to compositions made or to be made on account of any of the small branches, or to any remission, mitigation, or pardon of any penalties or forfeitures incurred or to be incurred, or to fines taken or to be taken, or to rents, boons, and services reserved or to be reserved upon such grants, leases, and assurances, or to the mitigation or remission of the same, or to any other lawful act, matter, or thing which has been or may be done touching the said branches, or to the granting of any droits of admiralty or any droits of the Crown, or any part or proportion of any such droits respectively, as a reward or remuneration to any officer or officers or other person or persons seizing or taking the same, or giving any information relating thereto, or to the granting, disposing of, or leasing any freehold or copyhold property, or the produce or any part of the produce or amount or value of any freehold or copyhold, to which her Majesty or any of her royal predecessors have or hath or shall become entitled, either by escheat for want of heirs, or by reason of any forfeiture, or by reason that the same have been or shall be purchased by or for the use of or in trust for any alien or aliens, in the manner authorised by any Act touching or concerning the granting, disposing, or leasing of the same, or to the granting or distributing of any personal property devolved to the Crown by reason of the want of next of kin or personal representative of any deceased person; but the same rights and powers shall continue to be used, exercised, and enjoyed, in as full, free, ample, and effectual a manner to all intents and purposes as if this Act had not been passed, and as the same have been or might have been enjoyed by his late Majesty King William the Fourth at the time of his decease, subject nevertheless to all such restrictions and regulations as were in force, by virtue of any Act in relation thereto, at the time of the decease of his said late Majesty; it being the

true intent and meaning of this Act that the said rights and powers shall not in any degree be abridged, restrained, affected, or prejudiced in any manner whatsoever, but only that the monies accruing to the Crown, after the full and free exercise and enjoyment of the said rights and powers, subject as aforesaid, shall during her Majesty's life be carried to and made part of the consolidated fund of the United Kingdom.

13. Saving of Rights in Scotland.—Saving always to all and every person and persons, bodies politic and corporate, their heirs and successors, executors, administrators, and assigns, all such grants, gifts of mortification, rights, titles, estates, customs, interests, claims, and demands whatsoever, of, in, to, or out of the revenues, hereditaments, and others belonging to his late Majesty King William the Fourth in Scotland, as they or any of them had or ought to have had at the passing of this Act, as fully and effectually to all intents and purposes as if this Act had never been passed; any thing herein contained to the contrary notwithstanding.

14. Payments of Civil List to be free from Land Tax, &c.—All payments out of the civil list revenue shall be paid net and clear of all taxes or charges for or in respect of any land tax, or of the duties of one shilling and sixpence respectively, and clear of all fees and other deductions heretofore charged upon and deducted from such payments.

[*S.* **15** *rep.* 50 *Vict. c.* 2. *S.* **16** *rep.* 37 *& 38 Vict. c.* 96 (*S.L.R.*).]

17. Continuance of Act.—This Act shall continue in force for six months after the death of her most excellent Majesty (whom God long preserve), unless the heir or successor of her said Majesty shall sooner signify to both Houses of Parliament his or her royal will and pleasure to resume the possession of the several hereditary rates, duties, payments, and revenues hereby surrendered by her Majesty.

[*S.* **18** *rep.* 37 *& 38 Vict. c.* 96 (*S.L.R.*).]

SCHEDULE to which this Act refers.

		£
First Class -	For her Majesty's privy purse - - -	60,000
Second Class -	- Salaries of her Majesty's household and retired allowances - - - - -	131,260
Third Class -	- Expences of her Majesty's household - -	172,500
Fourth Class -	- Royal bounty, alms, and special services -	13,200
Fifth Class -	Pensions to the extent of L.1200 per annum.	
Sixth Class	Unappropriated monies - - - -	8,040
	£	385,000

CHAPTER XLIX.

The Government Annuities Act, 1838 (*Short Titles Act*, 1896).

An Act to transfer the Management of certain Annuities on Lives from the Trustees of the Waterloo Subscription Fund to the Commissioners for the Reduction of the National Debt, and to amend several Acts for enabling the said Commissioners to grant Life Annuities and Annuities for Terms of Years. [27th July 1838.]

[*Preamble and whole Act, except ss.* 11–14 *rep.* 51 *& 52 Vict. c.* 57 (*S.L.R.*).]

11. If on death of Annuitant intestate, the Sum claimed does not exceed L.10, the same may be paid without production of Letters of Administration—Penalty on False Declaration.—In case of the death of any party or nominee after the passing of this Act who is entitled to an annuity payable by the said commissioners under the

authority of this or any other Act now in force or which may hereafter be in force, if such party shall die intestate, and letters of administration shall not be taken out to his or her effects, and if the sum claimed shall not exceed ten pounds, it shall be lawful for the said commissioners to pay the same, without the production of letters of administration, to any party, being one of the next of kin of the deceased, upon such party making a declaration to that effect, in such form as the said commissioners, or the comptroller general, or assistant comptroller acting under the said commissioners, shall think fit: Provided always, that in case such declaration shall be false, the party making the same shall be subject to the like penalty as is imposed in and by the said Act passed in the second and third years of the reign of his late Majesty King William the Fourth.[1]

[1] *The Act referred to is* 2 & 3 *Will.* 4, *c.* 59.

12. On death of party or nominee entitled to an Annuity, the production of Probate or Letters of Administration to be sufficient authority for payment.—In case of the death of any party or nominee entitled to any annuity payable by the said commissioners under the authority of this or any other Act now in force or which may hereafter be in force, the production of probate or letters of administration, to an amount exceeding the sum claimed of the said commissioners, granted by any court in Great Britain or Ireland having authority to grant the same, shall be a sufficient authority to the said commissioners to pay to the party to whom such probate or letters of administration may be granted, any sum which may be due on account of such annuity.

13. Evidence of existence or death of Nominee.—Whenever it shall be proved to the satisfaction of the said commissioners, or of the comptroller general, or of the assistant comptroller acting under the said commissioners, that the certificate proving the existence or death of any nominee, as required by the Acts under which any life annuity may have been or may be granted, or of any annuity which may be payable by the said commissioners, cannot be produced, it shall and may be lawful to and for the said commissioners, or comptroller general, or assistant comptroller general, to admit such other evidence of the existence or death of the said nominee as they may under the circumstances of each particular case deem expedient and sufficient.

14. Certificate of Registrars of Births, &c. sufficient Evidence.—The production of the certificate under the hand of any superintendent registrar or registrar of births and deaths, to be attested by two or more credible witnesses, certifying that such certificate is a true copy of the register book, or of the certificate of the registrar general under the seal of the register office, shall be sufficient evidence of the birth, death, or marriage of any nominee in each case, any thing in the said Acts or in any other Act for enabling the said commissioners to grant life annuities to the contrary thereof notwithstanding: Provided always, that every such certificate shall be accompanied with a declaration of the identity of every such nominee, to be made, taken, and declared by and before such and the like authorities as are mentioned in any of the said Acts; and whenever any such certificate of birth, death or marriage shall be produced of any superintendent registrar or registrar of births and deaths (other than that of the registrar general), a declaration shall be annexed thereunto of the witnesses who attested the execution thereof, or one of them, or their, his, or her solemn affirmation in case they or either of them shall be of the people called Quakers or Moravians or Separatists, to be made before any justice of the peace or magistrate of the county, city, riding, town, or place wherein the place of the birth, death, or marriage of any such nominee shall be situate, setting forth that such witness or witnesses did examine and compare the said copy of the register of birth, death, or marriage with the register thereof, and that it is a true and literal copy thereof, and did see such registrar or superintendent registrar (as the case may be) sign the said certificate, and that the names of such witnesses are of their own proper handwriting.

CHAPTER LVIII.

THE LAND TAX REDEMPTION ACT, 1838 (*Short Titles Act*, 1896).

AN ACT to vest in the Treasury the Powers heretofore exercised by Commissioners appointed for certain Purposes relating to the Redemption of the Land Tax; and to authorize the Court of Exchequer to determine Disputes as to the Division in which Lands are liable to be rated to the Land Tax.

[31st July 1838.]

[*Preamble recites* 54 *Geo.* 3, *c.* 173.]

1. POWERS AND AUTHORITIES HERETOFORE VESTED IN COMMISSIONERS APPOINTED BY LETTERS PATENT PURSUANT TO THE RECITED ACT TO BE VESTED IN THE TREASURY.—All the several powers and authorities which, under or by virtue of any Act or Acts now in force relating to the redemption and sale of the land tax, was heretofore vested in or might have been vested in or used or exercised by any person or persons appointed or who might have been appointed a commissioner or commissioners by virtue of the letters patent of his late Majesty King William the Fourth, under the great seal, in pursuance of the said recited Act of the fifty-fourth year of the reign of his said late Majesty King George the Third, shall be and the same are hereby vested in the Treasury, and the Treasury shall use and exercise all such powers and authorities, and do and perform any act, matter, or thing relating thereto, as fully and effectually to all intents and purposes as any commissioners appointed or who might have been appointed as aforesaid by virtue of letters patent under the great seal could or might have used and exercised or done and performed the same respectively.

2. UPON APPLICATION TO THE COURT OF EXCHEQUER BY THE OWNER OR OCCUPIER OF ANY LANDS ASSESSED TO THE LAND TAX IN TWO OR MORE PLACES BY REASON OF SOME DOUBT OR DISPUTE, THE COURT MAY MAKE ORDERS FOR THE RELIEF OF THE PARTY AND FOR DETERMINING THE DISPUTE.—[*Recital*] Upon application to her Majesty's Court of Exchequer in England and Scotland respectively, made by or on the behalf of the owner or occupier of any lands, tenements, or hereditaments, by affidavit or otherwise, showing that by reason of some doubt or dispute as to the division, parish, or place in which or in aid of which such lands, tenements, or hereditaments are legally liable to be assessed to the land tax, the same or any person or persons in respect thereof have or hath been assessed, rated, or charged to the land tax in the several assessments made for two or more divisions, parishes or places, and that such application is not made with a view to delay the payment of the land tax which may be legally assessed or charged upon or in respect of such lands, tenements, or hereditaments, and that the party by whom or on whose behalf such application is made is ready to bring into court or to pay or dispose of, in such manner as the court may order or direct, the sum or sums assessed or charged by the said several assessments or either of them, it shall be lawful for the court to make rules and orders calling upon the respective commissioners of the land tax acting for the several divisions, parishes, or places in or for which the said several assessments shall have been made, to appear and maintain the said assessments, or to relinquish the same respectively, so far as the same relate to the lands, tenements, or hereditaments in question, and in the meantime to stay all proceedings, by distress or otherwise, against the party assessed or charged in respect of such lands, tenements, or hereditaments, for the levying or compelling payment of the sum or sums so as aforesaid assessed; and it shall also be lawful for the court, if it shall think proper, to order the party by whom or on whose behalf such application shall be made to pay into court the sum or sums assessed, or any part thereof, to abide the determination of the dispute or to be disposed of as the court may direct; and for determining the question or questions in dispute it shall be for the court to order the trial of one or more feigned issue or issues upon such point or points as the court shall think proper, and also to direct who shall be the plaintiff or plaintiffs and who shall be the defendant or defendants on such trial, or otherwise to dispose of the question or questions in dispute and determine the same in a summary manner, and to make such other rules and orders therein, as to costs and all other matters as may appear to be just and reasonable.

3. THE COURT MAY ORDER THE PAYMENT OF COSTS.—It shall be lawful for the court

to order the commissioners of the land tax acting for the said divisions, parishes, or places respectively to pay to the person by whom or on whose behalf such application as aforesaid shall be made the costs of making the same or incidental or relating thereto, or otherwise to order such person to pay to the respective commissioners the costs of appearing and answering such application, or to order the commissioners acting for either of the said divisions, parishes, or places, to pay to the commissioners acting for the other of such divisions, parishes, or places, the costs occasioned by any such application as aforesaid, or by any proceedings under the order or direction of the court for determining any such doubt or dispute as aforesaid; and all costs, charges, and expences, which the said commissioners shall respectively sustain, bear, pay, or be put unto by reason of any proceeding under the provisions of this Act, and which they shall not be reimbursed by any other party to such proceedings shall be defrayed by an assessment, which the said commissioners are hereby respectively empowered to make on the several lands, tenements, and hereditaments chargeable to the land tax in their respective divisions, parishes, or places with reference to which such dispute or doubt as aforesaid shall have arisen.

4. The Court may order the amount paid under an Assessment made in a wrong place to be refunded.—If upon any such application as aforesaid it shall appear to the satisfaction of the court, that the party by whom or on whose behalf the same shall be made shall have paid the assessment or assessments of the land tax upon or in respect of any lands, tenements, or hereditaments for any division, parish, or place, in which or in aid of which such lands, tenements, or hereditaments were not legally liable to be and ought not to have been rated or assessed, it shall be lawful for the court to order and direct the commissioners acting for such division, parish, or place, and the said commissioners are hereby fully authorized, to raise the amount of such assessment or assessments so paid by the said party by an assessment on the several lands, tenements, and hereditaments chargeable to the land tax in such division, parish, or place, and either to refund the said amount to the said party, or to pay the same to the collector of the division, parish, or place, in or in aid of which such lands, tenements, or hereditaments are or may be legally liable to be assessed, or otherwise to refund and pay the said amount to the said party and the said collector, in such proportions as to the court may seem right and the justice of the case may require.

CHAPTER LXI.

The Government Offices Security Act, 1838 (*Short Titles Act*, 1896).

An Act to amend an Act for enabling Persons to make Deposits of Stock or Exchequer Bills in lieu of giving Security by Bond to the Postmaster General and Commissioners of Land Revenue, Customs, Excise, Stamps, and Taxes.[1] [31st July 1838.]

[1] *This Act is extended to Inland Revenue*, 53 & 54 *Vict. c.* 21, *s.* 5.

[*Preamble recites* 6 & 7 *Will.* 4, *c.* 28, *which provides that persons or bodies corporate required to give security to the postmaster general and commissioners of land revenue, customs, excise, stamps, and taxes, may with the consent of the Treasury, transfer into the name of the postmaster general, or of the chief commissioner of woods, forests, land revenues, works, and buildings, or of the chairman for the time being of the commissioners of that department of the revenue in respect of which such security is required, in the books of the Bank of England, so much of any public stock standing in the said books in the names of such persons or bodies corporate, or may deposit in the Bank of England in the name of the postmaster general or chief commissioner, or of such chairman, such an amount of Exchequer bills as shall be, in the judgment of the Treasury, a sufficient security and indemnification against all contraventions of the duty or purpose for the due performance of which such security was required.*]

1. Stock, &c. deposited as Security may be transferred into joint names of the Postmaster General, &c. and Depositor, who may receive Dividends.—Any public

stock standing in the said books of the Bank of England in the name of the said postmaster general, or of the said chief commissioner, or of the said chairman for the time being, and any Exchequer bills so deposited as aforesaid, and any stock or Exchequer bills which shall at any time hereafter be required to be transferred or deposited by way of security in pursuance of the said Act or this Act, may be transferred in the said books into or deposited in the name of such postmaster general, or of such chief commissioner, or of such chairman for the time being, and into and in that of any person or persons or body corporate from whom such security has been or may be required, or into the name of any person appointed by him or them; and the dividends upon all stock so transferred, and the interest upon all Exchequer bills so deposited, may be received by such person or persons in whose name such stock may be standing or in whose name such Exchequer bills may be deposited jointly as aforesaid, or by any other person or persons duly authorized by letter of attorney executed by such person or persons or body corporate; . . . . . .

S. 1 *in part rep.* 37 & 38 *Vict. c.* 96 (*S.L.R.*).

2. Stock, &c. may be sold on certificate of Accountant General of Post Office, &c.—And whereas by the said Act it is enacted, that it shall be lawful for the said postmaster general, upon the certificate of the accountant general of the Post Office, and for such chief commissioner, and for such chairman as aforesaid, upon the certificate of any two or more of the commissioners of such department of the revenue, that the revenue has been damnified by any act done or any payment or duty omitted in contravention of the duty or purpose for the due performance of which such security was required as therein-before mentioned, and they and each of them are thereby required to sell so much of such stock or of such Exchequer bills as shall be necessary to make good any loss so occasioned, and to pay the proceeds thereof to the receiver general of that department of revenue in respect of which such loss has been sustained: Be it enacted, that nothing herein contained shall extend to prevent or restrain the sale of any stock or Exchequer bills so transferred as aforesaid upon such certificate as is herein lastly above recited; but every such certificate shall specify the names in which the stock or Exchequer bills intended to be sold is standing or deposited; and upon the production of any such certificate the Bank of England shall permit the postmaster general, such chief commissioner, or chairman, as the case may be, to sell, assign, or transfer stock, or shall deliver to such postmaster general, chief commissioner, or chairman, Exchequer bills to the amount in such certificate specified from the account therein mentioned, notwithstanding such stock or such Exchequer bills shall have stood in the said books in the names of such postmaster general, chief commissioner, or chairman, and some other person or some body corporate jointly.

3. Provisions of recited Act and this Act to extend to all persons required to give Bonds for the due discharge of their Duties in Offices under the Crown, &c.—[*Recital*] All or any of the provisions of the said Act and of this Act shall be and they are hereby extended to all persons who are or shall be required to give bond for the proper and faithful discharge of the duties of any public office under the crown; and it shall be lawful to and for the Treasury by warrant to the Bank of England or the Bank of Ireland, as the case may be, to appoint the officer or officers in whose name or names such stock or Exchequer bills shall be deposited, and to make such regulations as may be necessary for extending the provisions of the said recited Act and of this Act to such other cases as are hereby authorized.

CHAPTER LXX.

The Entail Act, 1838 (*Short Titles Act,* 1896).

An Act to extend the Powers of an Act of the Sixth and Seventh Year of the Reign of His late Majesty, in relation to granting Tacks and making Excambions by Heirs of Entail. [4th August 1838.]

[*Preamble recites* 6 & 7 *Will.* 4, *c.* 42, *and Scots Act of* 1685 (*Act concerning tailzies*).]

1. Powers and provisions of first recited Act, as to Tacks and Excambions, shall extend to cases where Deeds of Entail are not recorded in terms of secondly recited Act.—All the powers of granting tacks and of making excambions conferred by the said first-recited Act upon heirs of entail in possession of entailed estates, in virtue of any deed of entail made and established, or which may hereafter be made and established, pursuant to the directions of the said second-recited Act, shall extend and are hereby extended to heirs of entail in possession of entailed estates under deeds of entail not recorded in terms of the said second-recited Act; and all the powers, provisions, and clauses contained in the first-recited Act, in relation to the granting tacks and making excambions, shall, except as herein otherwise provided, extend to and be as good, valid, and effectual for carrying this Act into execution, as if the same had been repeated and re-enacted in the body of this Act.

2. Contracts of Excambion to be recorded in Sheriff Court Books.—Provided always, that all contracts of excambion to be executed in virtue of the powers of this Act shall be recorded in the sheriff court books of each of the shires in which the lands or heritages excambed are situated, and shall thereupon be effectual to all intents and purposes, without the necessity of being recorded in the register of tailzies, as by the said first-recited Act required.

3. Where Deed of Entail is recorded after making an Excambion, any Contract entered into shall be registered at the same time.—In case any excambion shall be made of lands held under a deed of entail which has not been recorded in the register of entails, and such deed of entail shall, after such excambion, be recorded in the said register, it shall be incumbent upon the party registering the entail to register also at the same time in the said register of entails any contract or contracts of excambion on any part or parts of the entailed state entered into before the registration of the deed of entail as aforesaid; and failing the registration of such contract or contracts, such deed of entail, in so far as regards any such excambion made before the registration, shall be deemed and taken to be unrecorded in the said register of entails.

CHAPTER LXXVII.

The Quakers and Moravians Act, 1838 (*Short Titles Act*, 1896).

An Act for permitting Affirmation to be made instead of an Oath in certain Cases. [10th August 1838.]

[*Preamble.*]

1. Certain persons may make Affirmation in lieu of Oath; and, if convicted of having falsely affirmed, shall be punished as if guilty of Perjury—Form of Affirmation.—It shall be lawful for any person who shall have been a Quaker or a Moravian to make solemn affirmation and declaration in lieu of taking an oath, as fully as it would be lawful for any such person to do if he still remained a member of either of such religious denominations of Christians, which said affirmation or declaration shall be of the same force and effect as if he or she had taken an oath in the usual form; and if any such person making such solemn affirmation or declaration shall be convicted of having wilfully, falsely, and corruptly affirmed or declared any matter or thing which, if the same had been sworn in the usual form, would have amounted to wilful and corrupt perjury, every such offender shall be subject to the same pains, penalties, and forfeitures, to which persons convicted of wilful and corrupt perjury are or shall be subject: Provided always that every such affirmation or declaration shall be in the words following, that is to say,

"I A.B., having been one of the people called Quakers, [or one of the persuasion of "the people called Quakers, or of the united brethren called Moravians, as the case may "be], and entertaining conscientious objections to the taking of an oath, do solemnly, "sincerely, and truly declare and affirm"

CHAPTER LXXXVI.

THE COURT OF SESSION (No. 1) ACT, 1838 (*Short Titles Act*, 1896).

AN ACT to diminish Delay and Expence in Suspensions in the Court of Session in Scotland. [10th August 1838.]

[*Preamble.*]

[*Ss.* **1, 2, 3** *rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*).]

4. SUSPENSIONS MAY BE BROUGHT OF DECREES IN FORO.—Where the judgment of any inferior court pronounced in foro, which may at present be brought under review of the Court of Session by suspension, with the exception of any judgment pronounced in actions of removing, is intended to be brought under review in that form, it shall be competent to suspend the decree, and any diligence or proceedings following thereon, by lodging in the bill chamber a written note of suspension, signed by an agent in the Court of Session, reciting the import and effect of the decree sought to be suspended, and setting forth in a prayer the relief or remedy craved; the presentment of which note, on being certified by the clerk, shall operate as an interim sist of diligence; and on such caution as is by the present practice required being found for implement of such decree, and also for such expences as may be incurred in the Court of Session, such note shall be forthwith passed by the lord ordinary on the bills, and certified notice of the note having been passed being transmitted to the clerk of the inferior court the process shall be forthwith transmitted to the Court of Session; and such note and interlocutor passing, the same shall be served on the opposite party by a messenger at arms in common form; and it shall be competent after the expiry of fifteen days from the date of service . . . to enrol the cause: . . . Provided always, that where a party is desirous to have such decree of any inferior court pronounced in foro suspended without caution or on juratory caution, and also in suspensions of decreets of removing there shall be annexed to such note of suspension an articulate statement of the facts on which the suspension is founded and a note of pleas in law; and such note shall be laid before the lord ordinary on the bills, who may pronounce such order or interlocutor as shall be just; and where answers shall be ordered, such answers shall be in a similar form to the reasons of suspension; . . . it being always competent to reclaim to the inner house against the interlocutor of the lord ordinary passing or refusing such note; and provided also, that in all cases of suspension it shall be competent to the inferior court or the Court of Session to regulate all matters regarding interim possession in like manner as is by the present law and practice competent in the case of advocations.

S. 4 *in part rep.* 55 *&* 56 *Vict. c.* 19 (*S.L.R.*).

5. SUSPENSIONS MAY BE BROUGHT OF DECREES IN ABSENCE.—It shall be lawful for any party to bring a suspension of any decree in absence pronounced in the Court of Session, by lodging in the bill chamber a note of suspension of the form and effect of notes of suspension herein-before allowed to be brought of decrees in foro of inferior courts; and upon consignation in the hands of the clerk of such expences as may have been decerned for, such note of suspension shall be received and marked by the clerk in the bill chamber, and shall thereupon be laid before the lord ordinary on the bills, and shall be passed; and the lord ordinary shall have power to award to the pursuer such part of the expences consigned as may appear to be just; and such note of suspension and interlocutor passing, the same shall be served on the opposite party by a messenger at arms in common form, and it shall be competent after the elapse of fifteen days from the date of service . . . to enrol the cause; . . . and the lord ordinary before whom such cause shall come may grant warrant to submit the original proceedings to the clerk to such cause.

S. 5 *in part rep.* 55 *&* 56 *Vict. c.* 19 (*S.L.R.*).

6. FORMS OF SUSPENSIONS AND INTERDICTS, &C. NOT OTHERWISE PROVIDED FOR IN THIS ACT.—All suspensions and interdicts, and suspensions, not otherwise provided for in this Act, may be brought by lodging in the bill chamber a note in manner aforesaid; and there shall be annexed to such note an articulate statement of the facts on which such suspension is founded, together with a note of pleas in law; and such note of

suspension shall be received and marked by the clerk in the bill chamber, and be forthwith laid before the lord ordinary on the bills, who shall pronounce such order or interlocutor thereon as may be just; and such note and order or interlocutor thereon shall be served on the opposite party by a messenger at arms in common form, and shall be answered in a similar form to the reasons of suspension: . . . Provided always, that the practice as to caution in such cases, and power to reclaim to the inner house, shall remain as at present.

S. 6 *in part rep.* 55 & 56 *Vict. c.* 19 (*S.L.R.*).

[*Ss.* **7, 8** *rep.* 37 & 38 *Vict. c.* 96 (*S.L.R.*).]

9. Court of Session may make Acts of Sederunt relative to this Act.—The Court of Session shall be and is hereby empowered from time to time to make such further regulations, by act or acts of sederunt, as the said court may deem proper for carrying into effect the purposes of this Act; and for such purposes the said court may meet during vacation as well as during session, and may alter and amend such regulations from time to time: Provided always, that within fourteen days from the commencement of the session of Parliament next ensuing the making of any such regulations, there shall be transmitted to both Houses of Parliament copies of all such acts of sederunt to be made and passed under the powers hereby given.

[*Ss.* **10–12** *rep.* 37 & 38 *Vict. c.* 96 (*S.L.R.*). *S.* **11** *rep.* 51 & 52 *Vict. c.* 57 (*S.L.R.*).]

CHAPTER XCV.

The Pensions Act, 1838 (*Short Titles Act*, 1896).

An Act to provide for the Payment of certain Pensions. [14th August 1838.]

[*Preamble recites* 2 & 3 *Will.* 4, *c.* 116.]

1. Her Majesty may charge an Annual Sum on the Consolidated Fund for payment of certain Pensions.—It shall be lawful for her Majesty, if her Majesty shall be graciously pleased so to direct, to charge upon the consolidated fund of the United Kingdom of Great Britain and Ireland an annual sum, not exceeding one hundred and thirty-six thousand pounds, for the payment of such pensions as prior to the accession of her Majesty were charged upon the consolidated fund by virtue of the said recited Act, upon the civil list revenues of his said late Majesty, and upon the four-and-a-half per centum or West India duties. . . . . .

S. 1 *in part rep.* 53 & 54 *Vict. c.* 91 (*S.L.R.*).

2. Treasury to issue the Money.—It shall be lawful for the Treasury, and they are hereby authorized and required, by warrant, to direct the issue out of the said consolidated fund, from quarter to quarter, of such sums of money, not exceeding in the whole the said sum of one hundred and thirty-six thousand pounds, as shall be required for the payment of such pensions.

[*S.* **3** *rep.* 37 & 38 *Vict. c.* 96 (*S.L.R.*).]

4. Recited Enactment extended to all parts of the United Kingdom.—And whereas by an Act passed in the first year of the reign of her Majesty Queen Anne, intituled "An Act for the better support of her Majesty's household, and of the honour "and dignity of the Crown," it is enacted, that the hereditary duties of excise, and the revenue arising in the General Letter Office or Post Office, and the small branches of her Majesty's revenue, should not be alienable or grantable by her Majesty, for any estate or term whatsoever to endure longer than the life of her Majesty, or of such King or Queen as shall make such alienation or grant; and that all gifts, grants, alienations, leases, and assurances whatsoever to be had or made of any manors, messuages, lands, tenements, rents, tithes, or other hereditaments, or of any of the said revenues or branches, or any part thereof, contrary to the provisions of the said Act, or any of them, should be null and void: And whereas it is expedient to extend the said provision to Ireland and Scotland: Be it enacted, that the said provision shall be deemed and taken to extend to all parts of the United Kingdom.

[*S.* **5** *rep.* 37 & 38 *Vict. c.* 96 (*S.L.R.*).]

CHAPTER XCVIII.

THE RAILWAYS (CONVEYANCE OF MAILS) ACT, 1838 (*Short Titles Act*, 1896).

AN ACT to provide for the Conveyance of the Mails by Railways.[1]
[14th August 1838.]

[1] *The provisions of this Act requiring any notice, requisition, or document to be under the hand of the postmaster general are rep.* 31 & 32 *Vict. c.* 119, *s.* 37.

[*Preamble.*]

1. POSTMASTER GENERAL MAY REQUIRE RAILWAY COMPANIES TO CONVEY THE MAILS.—In all cases of railways already made or in progress or to be hereafter made within the United Kingdom, by which passengers or goods shall be conveyed in or upon carriages drawn or impelled by the power of steam, or by any locomotive or stationary engines, or animal or other power whatever, it shall be lawful for the postmaster general, by notice in writing under his hand delivered to the company of proprietors of any such railway, to require that the mails or post letter bags shall from and after the day to be named in any such notice (being not less than twenty-eight days from the delivery thereof) be conveyed and forwarded by such company on their railway, either by the ordinary trains of carriages, or by special trains, as need may be at such hours or times in the day or night as the postmaster general shall direct, together with the guards appointed and employed by the postmaster general in charge thereof, and any other officers of the Post Office; and thereupon the said company shall from and after the day to be named in such notice, at their own costs, provide sufficient carriages and engines on such railways for the conveyance of such mails and post letter bags to the satisfaction of the postmaster general, and receive, take up, carry, and convey by such ordinary or special trains of carriages or otherwise, as need may be, all such mails or post letter bags as shall for that purpose be tendered to them, or any of their officers, servants, or agents, by any officer of the Post Office, and also receive, take up, carry, and convey, in and upon the carriages carrying such mails or post letter bags, the guards in charge thereof, and any other officers of the Post Office, and shall receive, take up, deliver, and leave such mails or post letter bags, guards, and officers, at such places in the line of such railway, on such days, at such hours or times in the day, or night, and subject to all such reasonable regulations and restrictions as to speed of travelling, places, times and duration of stoppages, and times of arrival, as the postmaster general shall in that behalf from time to time order or direct: Provided always, that the rate of speed to be required shall in no case exceed the maximum rate of speed prescribed by the directors of such railway or railways for the conveyance of passengers by their first class trains; but that no alteration in the rate of speed of any train by which the mails shall be conveyed shall be made until six calendar months previous notice shall be given to the postmaster general of any such intended alteration.

2. IF REQUIRED, CARRIAGE TO BE APPLIED EXCLUSIVELY TO SUCH CONVEYANCE.—It shall be lawful for the postmaster general (if he shall see fit) to require that the whole of the inside of any carriage used on any railway for the conveyance of mails or post letter bags shall be exclusively appropriated for the purpose of carrying the mails.

3. RAILWAY COMPANY, IF REQUIRED, TO PROVIDE SEPARATE CARRIAGE FOR SORTING LETTERS, &c.—The company of proprietors of any such railway shall, on being required so to do by the postmaster general, provide and furnish (in addition to the carriages aforesaid) a separate carriage or separate carriages, fitted up as the postmaster general or such person as he shall nominate in that behalf, shall direct, for the purpose of sorting letters therein, and shall forward the same carriage or carriages by their railway, at such hours or times, and subject to all such reasonable regulations as aforesaid as the postmaster general shall in that behalf order or direct; and such company of proprietors shall receive, take up, carry, and convey in any such last-mentioned carriage or carriages all such post letter bags and officers of the Post Office as the postmaster general shall reasonably require, and shall deliver and leave any post letter bags and officers of the Post Office at such places on the line of the railway as the postmaster general shall in that behalf from time to time reasonably order and direct.

4. POSTMASTER GENERAL MAY DIRECT MAILS TO BE CARRIED ON RAILWAY IN MAIL

Coaches, in lieu of Company's Carriages.—In case the postmaster general shall at any time be desirous of sending by any such railway any of her Majesty's mail coaches or mail carts, with the mails or post letter bags and guards thereof, and carriages for sorting letters, with any officers of the Post Office therein, instead of sending the said mails or post letter bags, guards, and officers of the Post Office by carriages to be provided by such railway company as aforesaid, then and in any such case such railway company shall, at the request of the postmaster general, signified by such notice as aforesaid, cause such mail coaches or mail carts, with the mails or post letter bags and guards thereof, and carriages for sorting letters, with any officers of the Post Office therein, to be conveyed by the usual or proper trucks or frames on their said railway, subject to such regulations and restrictions of the postmaster general as herein-before mentioned.

5. Railway Companies to be subject to directions of Post Office respecting conveyance of Mails.—For the greater security of the mails or post letter bags so to be carried or conveyed by railways the company of proprietors of such respective railways along which such mails or post letter bags, mail coaches, or carts and carriages for sorting letters shall be so required by the postmaster general to be conveyed, and their respective officers, servants, and agents, shall obey, observe, and perform all such reasonable regulations respecting the conveyance, delivering, and leaving of such mails and post letter bags, guards and officers of the Post Office, mail coaches, or carts and carriages, on any such railways, or on the line thereof, as the postmaster general, or such officer of the Post Office as he shall nominate in that behalf, shall in his discretion from time to time give or make: Provided always, that it shall not be lawful for any officer or servant of the Post Office to interfere with or give orders to the engineer or other person having the charge of any engine upon any railway along which mails or post letter bags shall be conveyed; but if any cause of complaint shall arise, the same shall be stated to the conductor or other officer of the railway company having the charge of the train, or to the chief officer at any station upon the railway; and in case of any default or neglect on the part of any officers or servants of the railway company to comply with any of the regulations of the postmaster general or other officer of the Post Office so to be nominated as aforesaid, the railway company shall be wholly responsible for the same.

6. Remuneration to Railway Companies for conveyance of Mails.—Every company of proprietors of any railway along which such mails or post letter bags, mail coaches, carts, or carriages shall be so required by the postmaster general to be conveyed, shall be entitled to such reasonable remuneration to be paid by the postmaster general to any such company of proprietors for the conveyance of such mails, post letter bags, mail guards, and other officers of the Post Office, mail coaches, carts, and carriages, in manner required by such postmaster general, or by such officer of the Post Office as he shall in that behalf nominate as aforesaid, as shall (either prior to or after the commencement of such service) be fixed and agreed on between the postmaster general and such company of proprietors, or, in case of difference of opinion between them, then as shall be determined by arbitration as herein-after provided; but so that the services which may be required by the postmaster general, or by such officer of the Post Office as he in that behalf shall nominate as aforesaid, to be performed by any such company of proprietors, be not suspended, postponed, or deferred by reason of such remuneration not having been then fixed or agreed on between the said postmaster general and such company of proprietors, or by reason of the award on any reference to arbitration to determine the remuneration not having been then made.

7. Agreements between Postmaster General and Railway Companies as to amount of Remuneration, &c. shall be altered on any increase or diminution of the services to be rendered.—Notwithstanding any agreement entered into between the postmaster general and any such company, or any award to be made on any such reference as aforesaid, fixing the amount of remuneration to be paid to such company for any services to be rendered by them as aforesaid, it shall be lawful and competent to and for the postmaster general, by notice in writing, to require, from and after the day to be named in any such notice, not being less than twenty-eight days from the delivery thereof, any addition to be made to the services in respect of which such agreement shall be entered into or award made; and in any such case, and also in case of a discontinuance of any part of such services as herein-after provided, a fresh agreement shall be

entered into between the postmaster general and such company, regulating the future amount of remuneration to be paid by the postmaster general to such company for such increased or diminished services, as the case may be; or, if the parties cannot agree on such amount, the same shall be referred to arbitration in like manner as herein-before is mentioned and herein-after provided as to any original agreement; and such arbitrators shall have power to award any compensation they may consider reasonable to be paid to any railway company for any loss that may have been occasioned to them by the discontinuance or alteration of the services previously agreed to be performed by them by any train or carriage specially required by the postmaster general to be forwarded for the conveyance of the mails; but so that nevertheless such increased or diminished services shall not be suspended, postponed, or deferred by reason of the amount of such increased or diminished remuneration not having been then fixed or agreed on between the postmaster general and such company of proprietors, or by reason of the award on any reference to arbitration to determine the amount of such increased or diminished remuneration not having been then made.

8. Postmaster General may terminate services of Railway Companies, on Notice.—It shall be lawful for the postmaster general and he is hereby authorised, at any time during the continuance of the services of any company of proprietors as aforesaid, to give to such company, by writing under his hand, six calendar months previous notice that such services or any part thereof, shall cease and determine; and thereupon at the expiration of such six calendar months notice the said services, or such part thereof as aforesaid, and the remuneration for the same, shall cease and determine.

9. Or may terminate services of Railway Companies without Notice, subject to certain conditions.—It shall be lawful for the postmaster general at any time during the continuance of the services of any company of proprietors as aforesaid, by notice in writing under his hand, absolutely to determine and put an end to the same or any part thereof, without giving any previous notice, or on giving any notice less than six calendar months in respect thereof, and thereupon the said services shall cease and determine accordingly: Provided nevertheless, that in case the postmaster general shall, without giving six calendar months notice as aforesaid, at any time determine the services to be required by the postmaster general of any company of proprietors, or any part of such services, without any cause whatever, or for any cause other than the default by such company of proprietors in the performance of any of the services to be required of them by the postmaster general, or the breach by such company of proprietors of any of their engagements with the postmaster general, then and in any such case the postmaster general shall make to such company a full and fair compensation for all loss thereby occasioned, the amount whereof, in case the parties differ about the same, shall be ascertained by arbitration as herein-after mentioned.

10. Royal Arms to be painted on Carriages provided for the service of the Post Office.—On all carriages to be provided for the service of the Post Offices on any such railway there shall on the outside be painted the royal arms, in lieu of the name of the owner and of the number of the carriage, and of all other requisites, if any, prescribed by law in respect of carriages passing on any such railway; but the want of such royal arms on any carriage belonging to or used by the Post Office shall not form an objection to such carriage running on any railway, any thing to the contrary notwithstanding.

11. Bye Laws of Railway Companies not to be repugnant provisions of this Act.—It shall not be competent or lawful to or for the company of proprietors of any railway to make any bye laws, orders, rules, or regulations which shall militate against or be contrary or repugnant to any of the enactments herein contained; and if any company of proprietors shall make or shall have made any such bye laws, orders, rules, or regulations, either prior or subsequently to the postmaster general signifying to the said company his intention that the mails or post letter bags, mail coaches, carts, or carriages shall be conveyed by such railway, all such bye laws, orders, rules, and regulations, so far as they shall militate against or be contrary or repugnant to any of the enactments herein contained, shall be and be deemed absolutely void and of no effect, in like manner as if such bye laws, orders, rules, or regulations had never been made or passed, any thing to the contrary in anywise notwithstanding.

12. Penalty for refusing or neglecting to convey Mails.—If the company of proprietors of any railway, or any of their respective officers, servants, or agents, shall refuse or neglect to carry or convey any mails or post letter bags, when tendered to

them for such purpose by the postmaster general or any officer of the Post Office, or shall refuse to carry on their railway any mail coaches, carts, or carriages, as herein-before provided, when so required by the postmaster general, or shall refuse or neglect to receive, take up, deliver, and leave any such mails or post letter bags, mail guards, or other officers of the Post Office, mail coaches, carts, or carriages, at such places, at such times, on such days, and subject to such regulations and restrictions as to speed of travelling, places, times, and duration of stoppages, as the postmaster general shall from time to time reasonably direct or appoint, as herein-before provided or shall not obey, observe, and perform all such regulations, respecting the conveyance of the mails and post letter bags, mail coaches, carts, and carriages on any such railways, as the postmaster general, or such officer of the Post Office as he shall nominate in that behalf, shall make for the purposes aforesaid, then and in any such case the company of proprietors, who, or whose officer, servant, or agent, shall so offend in the premises, shall for every such offence forfeit and pay a sum not exceeding twenty pounds; provided nevertheless, that the payment of or liability to such penalty shall not in any manner lessen or affect the liability of any such company under any bond which may have been given by them under the provisions herein-after contained.

13. Postmaster General may require Railway Companies to give Security by Bond.—It shall be lawful for the postmaster general, if he shall so think fit, to require the company of proprietors of any railway already made or in progress or to be hereafter made within the United Kingdom to give security by bond to her Majesty, conditioned to be void if such company shall from time to time carry or convey, or cause to be carried or conveyed, all such mails or post letter bags, mail guards, and other officers of the Post Office, mail coaches, carts, and carriages in manner herein-before mentioned, when thereunto required by the postmaster general, or any officer of the Post Office duly authorized for that purpose, and shall receive, take up, deliver, and leave all such mails or post letter bags, guards and officers, mail coaches, carts, and carriages, at such places, at such times, on such days, and subject to such regulations and restrictions as to speed of travelling, places, times, and duration of stoppages, as herein-before mentioned, and shall obey, observe, and perform all such regulations respecting the same as the post-master general shall reasonably make, and shall well and truly do and perform, and cause to be done and performed, all such other acts, matters, and things as by this Act are required or directed to be done or performed by or on the part or behalf of such company, their officers, servants, and agents; and every such bond shall be taken in such sum and in such form as the postmaster general shall think proper; and every such security shall be renewed from time to time whenever and so often as such bond shall be forfeited, and also whenever and so often as to the postmaster general shall in his discretion require the same to be renewed; and if any company of proprietors of any such railway as aforesaid shall, when so required as aforesaid, refuse or neglect, for the space of one calendar month next after the delivery of any notice for such purpose to them given by or from the postmaster general, to execute to her Majesty, such bond to the effect and in manner aforesaid, or shall at any time refuse or neglect to renew such bond whenever and so often as the same shall by or in pursuance of this Act be required to be renewed, such company of proprietors shall forfeit one hundred pounds for every day during the period for which there shall be any refusal, neglect, or default to give or renew such security as aforesaid, after the expiration of the said one calendar month.

14. Lessees of Railway shall be liable to provisions of this Act, but if not a Body Corporate or Company, shall not be required to give Security by Bond above L.1000, &c.—Provided always, that in all cases in which any railway or part of a railway may previous to the passing of this Act have been demised or let by the company of proprietors thereof, the body corporate or company, or other persons to whom the same shall have been so demised or let, their successors, executors, administrators, or assigns, shall during the continuance of such lease be liable to all the provisions of this Act for or in respect of such railway or part of a railway, in lieu of such company of proprietors, but so that such lessees (not being a body corporate or company), their executors, administrators, or assigns, shall not be required in respect of any such railway or part of a railway to give security under the foregoing enactment to any amount in any one bond exceeding the sum of one thousand pounds, and shall not in any one year be liable in damages to be recovered upon any bonds which they may have given to any amount exceeding the sum of one thousand pounds and costs of suit.

15. Services of Notices.—All notices under the provisions of this Act by or on behalf of the postmaster general to any company of proprietors of any railway as aforesaid shall be considered as duly served on any company of proprietors in case the same shall be given or delivered to any one or more of the directors of such company, or to the secretary or clerk of such company, or be left at any station belonging to such company.

16. Settlement by Arbitration of Differences between Postmaster General and Railway Companies in certain cases.—In all cases in which the postmaster general and any company of proprietors of any railway shall not be able to agree on the amount of remuneration or compensation to be paid by the postmaster general to such company of proprietors for any services performed or to be performed by them as herein-before mentioned, the same shall be referred to the award of two persons, one to be named by the postmaster general, and the other by such company; and if such two persons cannot agree on the amount of such remuneration or compensation, then to the umpirage of some third person, to be appointed by such two first-named persons previously to their entering upon the inquiry; and the said award or umpirage, as the case may be, shall be binding and conclusive on the said parties, and their respective successors and assigns.

17. Railroad Companies after Contracts have existed for a certain period, may refer them to Arbitrators to decide as to their continuance.—After any contract entered into or award made under the authority of this Act shall have continued in operation for a period of three years, it shall be competent for any railway company who may consider themselves aggrieved by the terms of remuneration fixed by such contract or award, by notice under their common seal, to require that it shall be referred to arbitrators to determine whether any and what alteration ought to be made therein; and thereupon such arbitrators or umpire to be appointed as herein-before mentioned shall proceed to inquire into the circumstances, and make their award therein, as in the case of an original agreement: Provided always, that the services performed by such railway company for the Post Office shall in nowise be interrupted or impeded thereby.

18. Limitation of time for Nomination of Arbitrators and making of Awards, &c.—In all references to be made under the authority of this Act the postmaster general, or the railway company, as the case may be, shall nominate his or their arbitrator within fourteen days after notice from the other party, or in default it shall be lawful for the arbitrator appointed by the party giving notice to name the other arbitrator; and such arbitrators shall proceed forthwith in the reference and make their award therein within twenty-eight days after their appointment, or otherwise the matter shall be left to be determined by the umpire; and if such umpire shall refuse or neglect to proceed and make his award for the space of twenty-eight days after the matter shall have been referred to him, then a new umpire shall be appointed by the two first-named arbitrators, who shall in like manner proceed and make his award within twenty-eight days, or in default be superseded, and so toties quoties.

19. Interpretation of Terms—7 Will. 4 & 1 Vict. c. 36—Power of Justices to determine Offences against this Act.—Whenever the term "company of proprietors," or "railway company," or "company" is used in this Act, the same shall extend to and be construed to include the proprietors for the time being of any railway, whether a body corporate or individuals, and also (during the continuance of any demise or lease as aforesaid) any person, whether a body corporate or company or individuals, to whom any railway or part of a railway may previous to the passing of this Act have been demised or let, and their successors, executors, administrators, and assigns, unless the subject or context be otherwise repugnant to such construction; and the provisions of this Act shall be construed according to the respective interpretations of the terms and expressions contained in an Act passed in the first year of the reign of her present Majesty, intituled "An Act for consolidating the laws relative to offences against the "Post Office of the United Kingdom, and for regulating the judicial administration of "the Post Office laws, and for explaining certain terms and expressions employed in "those laws," so far as those interpretations are not repugnant to the subject or inconsistent with the context of such provisions; and this present Act shall be deemed and construed to be a Post Office Act within the intent and meaning of the said last-mentioned Act; and the pecuniary penalties hereby imposed shall be recovered and recoverable in the manner and form therein particularly mentioned and expressed with reference to the pecuniary penalties imposed by the Post Office Acts: Provided never-

theless, that any justice of the peace having jurisdiction for any county through which any railway shall pass, in respect of which any penalty or forfeiture under this Act shall have been incurred, shall and may hear and determine any offence against this Act which may subject any company to a pecuniary penalty not exceeding twenty pounds; and a summons issued under the Post Office Acts by any such justice against any railway company for the recovery of any such penalty shall be deemed to be sufficiently served in case either the summons or a copy thereof be delivered to any officer, servant, or agent of such company, or be left at any station belonging to such company.

[*S.* **20** *rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*).]

CHAPTER CV.

THE OATHS ACT, 1838 (*Short Titles Act*, 1896).

AN ACT to remove Doubts as to the Validity of certain Oaths. [14th August 1838.]

1. ALL PERSONS TO BE BOUND BY AN OATH ADMINISTERED IN THE FORM, &C. WHICH SUCH PERSONS MAY DECLARE BINDING.—In all cases in which an oath may lawfully be and shall have been administered to any person, either as a juryman or a witness, or a deponent in any proceeding, civil or criminal, in any court of law or equity in the United Kingdom, or on appointment to any office or employment, or on any occasion whatever, such person is bound by the oath administered, provided the same shall have been administered in such form and with such ceremonies as such person may declare to be binding; and every such person in case of wilful false swearing may be convicted of the crime of perjury in the same manner as if the oath had been administered in the form and with the ceremonies most commonly adopted.

CHAPTER CXIV.

THE DEBTORS (SCOTLAND) ACT, 1838 (*Short Titles Act*, 1896).

AN ACT to amend the Law of Scotland in Matters relating to Personal Diligence, Arrestments, and Poindings. [16th August 1838.]

[*Preamble.*]

1. EXTRACTS OF COURT OF SESSION, TEIND COURT, AND COURT OF JUSTICIARY DECREES TO CONTAIN WARRANT TO ARREST, CHARGE, AND POIND.—Where an extract shall be issued of a decree or act pronounced or to be pronounced by the Court of Session, or by the Court of Commission for Teinds, or by the Court of Justiciary, or of a decree proceeding upon any deed, decree arbitral, bond, protest of a bill, promissory note, or banker's note, or upon any other obligation or document on which execution may competently proceed, recorded in the books of council and session or of the Court of Justiciary, the extractor shall, in terms of the schedule (number 1) hereunto annexed (or as near to the form thereof as circumstances will permit), insert a warrant to charge the debtor or obligant to pay the debt or perform the obligation within the days of charge, under the pain of poinding and imprisonment, and to arrest and poind, and for that purpose to open shut and lockfast places; which extract shall be subscribed and prepared in other respects as extracts are at present subscribed and prepared, and for which extract no higher fees shall be exigible than those which are payable as by law established.

2. POWER TO ARREST.—It shall be lawful by virtue of such extract to arrest in like manner as if letters of arrestment on liquid grounds of debt or letters of horning containing warrant to arrest had been issued under the signet.

3. POWER TO CHARGE—OFFICER'S EXECUTION.—It shall be lawful by virtue of such extract to charge the debtor or obligant therein mentioned to pay the sums of money or

to perform the obligation therein specified within the days of charge, from and after the date of charge, under the pain of poinding and imprisonment; and the officer executing the same shall return an execution in terms of the schedule (number 2) hereunto annexed, or as near to the form thereof as circumstances will permit.

4. Power to poind.—On the expiration of the days of charge it shall be lawful by virtue of such extract to poind the moveable effects of the debtor in payment of the sums of money therein mentioned, as if letters of poinding or letters of horning containing warrant to poind had been issued, and for that purpose to open shut and lockfast places.

5. Execution to be registered; and to have the effect of Denunciation, and to accumulate Interest.—It shall be competent at any time within year and day after a charge has expired to present such extract and execution of charge to the keeper of the general register of hornings at Edinburgh; and the keeper shall thereupon record the execution in that register, and state therein the name and designation of the person by whom the extract and execution were presented, and also the date of presentation; which registration shall have the same effect as if the debtor or obligant had been denounced rebel in virtue of letters of horning, and the said letters, with the executions of charge and denunciation, had been recorded according to the forms now in use, and shall have the effect to accumulate the debt and interest into a capital sum, whereon interest shall thereafter become due.

6. Extract and Execution with Certificate of Registration to be presented in the Bill Chamber for Warrant to imprison.—On the execution being so recorded the keeper of the register shall write upon the extract and upon the execution (if it be written on paper apart) a certificate of the registration thereof in terms or to the effect of the schedule (number 3) hereunto annexed, which he shall date and subscribe; and if warrant to imprison be required, a writer to the signet shall indorse and subscribe on the extract a minute to the effect of the schedule (number 4) hereunto annexed (or as near to that form as circumstances will permit); and the extract, with the execution and certificate of registration and endorsed minute, shall be presented in the bill chamber of the Court of Session; and the clerk thereof shall, if there be no lawful cause to the contrary, write on the extract this deliverance, "Fiat ut petitur," and shall date and subscribe the same; and it shall be lawful by virtue of the said extract and deliverance to search for, take, apprehend, and imprison the debtor or obligant, and if necessary for that purpose, to open shut and lockfast places; and magistrates and keepers of prisons are hereby authorized and required to receive into and detain in prison the person of the debtor or obligant till liberated in due course of law, in like manner as if letters of caption had been issued under the signet.

7. Arrestment, &c. at the instance of a person acquiring right to extract.—Where any person shall acquire right to an extract of a decree or act issued as aforesaid, it shall be competent to him to present in the bill chamber the extract, with the execution of charge (if a charge shall have been given), and certificate of registration (if the same shall have been registered), and a minute endorsed thereon, in the form of the schedule (number 5) hereunto annexed (or as near thereto as circumstances will permit), subscribed by a writer to the signet, with the assignation, confirmation, or other legal evidence of such acquired right, praying for authority (as the case may be) to arrest, charge, poind the effects of, or (as the case may be) to imprison, the said debtor or obligant, and open shut and lockfast places; and the clerk shall, if there be no lawful cause to the contrary, write on the extract this deliverance, "Fiat ut petitur," and he shall date and subscribe the same, and endorse the same date on the documents produced, and subscribe with his initials the date so endorsed; and the extract with such deliverance shall be a warrant to arrest, charge, poind, and open shut and lockfast places, or (as the case may be) to search for, take, apprehend, and imprison as aforesaid, at the instance of such person.

8. Letters of Horning, &c. may be issued as formerly, but no Expences exigible.—Nothing herein contained shall prevent any person from obtaining extracts, and also letters of horning, poinding, and arrestment, or letters of arrestment and letters of caption, according to the former law and practice, if he shall see fit to proceed in that way, in place of in the manner hereby provided; but it is hereby declared, that in such case no part of the expences thereof, except the expences of the extract, shall be exigible from the debtor or obligant, or his estate, unless it be shown that it is incompetent to

proceed in the way herein provided; and where an extract has been issued before the commencement of this Act, it shall be competent for the person in whose favour such extract has been issued, or the person having right thereto, to obtain an extract in terms of this Act, or a warrant subjoined to the former extract in terms of the said schedule (number 1), and to prosecute diligence thereon agreeably to the provisions hereof.

9. Extracts of Sheriff's Decrees, &c. to contain Warrant to charge, arrest, poind, and open Shut and Lockfast Places.—Where an extract shall be issued of any decree or act pronounced or to be pronounced by any sheriff, or of a decree proceeding upon any deed, decree arbitral, bond, protest of a bill, promissory note, or banker's note, or upon any other obligation or document on which execution may competently proceed, recorded in the sheriff court books, the extractor shall, in terms of the schedule (number 6) hereunto annexed (or as near thereto as circumstances will permit), insert therein a warrant to charge the debtor or obligant to pay the debt or perform the obligation within the days of charge, under the pain of poinding and imprisonment, and to arrest and poind according to the present practice, and, if need be for the purpose of poinding, to open shut and lockfast places; which extract shall be subscribed and prepared in other respects as extracts are at present subscribed and prepared, and for which extracts no higher fees shall be exigible than those which are payable as by law established; and where an extract has been issued from the books of the sheriff before the commencement of this Act, it shall be competent for the person in whose favour such extract has been issued, or the person having right thereto, to obtain an extract in terms of this Act, or a warrant subjoined to the former extract in terms of the said schedule (number 6) and to prosecute diligence thereon agreeably to the provisions hereof.

10. Extract to authorize charge of Debtor, and to be registered, and to accumulate Interest.—It shall be lawful by virtue of such extract to charge the debtor or obligant therein mentioned to pay the sums of money or to perform the obligation therein specified within the days of charge, under pain of poinding and imprisonment, and the officer executing the same shall return an execution in terms of the said schedule (number 2), or as near to the form thereof as circumstances will permit; and it shall be competent at any time within year and day after a charge has expired to present the extract and execution of charge to the clerk of the sheriff court from which the extract has been issued, who shall thereupon record the execution in the register of hornings kept by him, and state therein the name and designation of the person by whom the extract and execution were presented at the date of presentation; which registration shall have the same effect as if the debtor or obligant had been denounced rebel in virtue of letters of horning, and the letters with the executions of charge and denunciation had been recorded according to the forms now in use, and shall have the effect to accumulate the debt and interest into a capital sum whereon interest shall thereafter become due.

11. Extract and Execution with Certificate of Registration to be presented in Sheriff Court for Warrant to imprison.—On the execution being so recorded the sheriff clerk shall write upon the extract and upon the execution (if it be written on paper apart) a certificate of the registration thereof, which he shall date and subscribe, in terms of the schedule (number 7) hereunto annexed (or as near thereto as circumstances will permit); and if warrant to imprison be desired, the creditor or a procurator of court shall endorse and subscribe on the said extract a minute in the terms of the schedule (number 8) hereunto annexed (or as near to that form as circumstances will permit); and the said clerk shall, if there be no lawful cause to the contrary, write on the extract this deliverance, "Fiat ut petitur," and shall date and subscribe the same; and it shall be lawful by virtue of the said extract and deliverance to search for, take, apprehend, imprison, and, if necessary for that purpose, to open shut and lockfast places as aforesaid; and magistrates and keepers of prisons are hereby authorized and required to receive into and detain in prison the person of the debtor or obligant till liberated in due course of law, in like manner as if letters of caption had been issued under the signet.

12. Arrestment, &c. at the instance of a person acquiring right to extract.—Where any person has acquired right to an extract of a decree or act of the sheriff, he may present to the sheriff clerk the extract, with the execution of charge (if a charge shall have been given), and certificate of registration (if the same shall have been

registered), and a minute endorsed on the extract in the form of the schedule (number 9) hereunto annexed (or as near thereto as circumstances will permit), subscribed by him or a procurator of court, with the assignation, confirmation, or other legal evidence of the acquired right, praying for authority (as the case may be) to arrest, charge, poind the effects of, or (as the case may be) to imprison the said debtor or obligant, and open shut and lockfast places; and the clerk shall, if there be no lawful cause to the contrary, write on the extract this deliverance, "Fiat ut petitur," and he shall date and subscribe the same, and endorse the same date on the documents produced, and subscribe with his initials the date so endorsed; and the extract, with such deliverance, shall be a warrant to arrest, charge, poind, and open shut and lockfast places, or (as the case may be) to search for, take, apprehend, and imprison as aforesaid, at the instance of such person.

13. Concurrence of Lords of Council, &c. to arrestment, &c. under Warrant.—Where a debtor or obligant is or his moveables are within the territory of any other sheriff than the sheriff from whose books such extract shall be lawfully issued, it shall be competent to present the extract in the bill chamber of the Court of Session, or in the court of the sheriff within whose jurisdiction the debtor or obligant is or his moveables are, with a subscribed minute endorsed thereon in terms of the schedule (number 10) hereunto annexed (or as near thereto as circumstances will permit) praying for the authority and concurrence of the lords of council and session, or of the said sheriff (as the case may be), to arrest, charge, and poind the moveables of the said debtor or obligant, and to open shut and lockfast places, all in terms of the warrant in the said extract; and if there be no lawful cause to the contrary, the clerk in the bill chamber or the sheriff clerk (as the case may be) shall grant authority accordingly by writing this deliverance, "Fiat ut petitur," and dating and subscribing the same; and it shall thereupon be lawful to arrest, charge, poind, and open shut and lockfast places in the same manner as if the said extract had been originally issued from the books of the Court of Session or concurring sheriff.

14. Proceedings on Extract where Debtor has been charged on a Warrant of Concurrence, &c.—Where the debtor or obligant shall have been charged on a warrant of concurrence and the execution recorded in the books of the concurring court, the extract and execution, with the certificate of registration, and a minute in terms of the said schedule (number 4) hereunto annexed (or as near thereto as circumstances will permit) endorsed thereon, may be presented either in the bill chamber subscribed by a writer to the signet, or in the court of the concurring sheriff subscribed by a procurator of court, praying for authority to imprison as aforesaid; and if there be no lawful cause to the contrary, the bill chamber clerk or sheriff clerk (as the case may be) shall grant authority accordingly by writing thereon this deliverance, "Fiat ut petitur," dating and subscribing the same; and it shall thereupon be lawful to open shut and lockfast places, search for, take, apprehend, and imprison, in manner herein-before provided.

15. Concurrence to Warrant of Imprisonment granted in another Sheriff Court.—Where a warrant to imprison has been granted by any sheriff in manner herein-before provided, and where the debtor or obligant is within the territory of another sheriff, such warrant may be presented, along with the extract, execution of charge, and certificate of registration, either in the bill chamber or in such other sheriff court, and a minute in terms or to the effect of the said schedule (number 10) praying for the authority and concurrence of the lords of council and session or of the said sheriff court for executing the said warrant; and if there be no lawful cause to the contrary the clerk in the bill chamber or the sheriff clerk (as the case may be) shall grant authority accordingly by writing this deliverance, "Fiat ut petitur," and dating and subscribing the same; and it shall thereupon be lawful to open shut and lockfast places, search for, take, apprehend, and imprison, in the same manner as if the said warrant had been originally granted by the Court of Session or the concurring sheriff.

16. Warrant to arrest may be introduced into Summonses before the Court of Session.—It shall be lawful to insert in summonses raised before the lords of council and sessions concluding for payment of money a warrant (or will) to arrest the moveables, debts, and money belonging or owing to the defender until caution be found acted in the books of council and session, that the same shall be made forthcoming as accords of law; and it shall be lawful to writers to the signet to subscribe and to the

keeper thereof and his deputes to affix the signet to such summonses without any other authority than this Act.

17. ARRESTMENT MAY BE EXECUTED BEFORE EXECUTING THE WARRANT, BUT THE WARRANT MUST BE EXECUTED, &c. WITHIN A LIMITED PERIOD.—By virtue of such warrant of arrestment, and also by virtue of letters of arrestment raised upon any libelled summons according to the present practice, it shall be competent before executing the warrant of citation to arrest the moveables, debts, and money belonging or owing to the defender until caution be found as aforesaid; and such arrestment shall be effectual, provided the warrant of citation shall be executed against the defender within twenty days after the date of the execution of the arrestment, and the summons called in court within twenty days after the diet of compearance, or where the expiry of the said period of twenty days after the diet of compearance falls within the vacation, or previous to the first calling day in the session next ensuing, provided the summons be called on the first calling day next hereafter; and if the warrant of citation shall not be executed and the summons called in manner above directed, the arrestment shall be null, without prejudice to the validity of any subsequent arrestment duly executed in virtue of the said warrant.

18. ARRESTMENTS AGAINST PERSONS FURTH OF THE KINGDOM TO BE EXECUTED AT THE RECORD OFFICE—6 GEO. 4, c. 120.—It shall not be competent to execute any arrestment as in the hands of a person furth of Scotland by service at the market cross of Edinburgh, and pier and shore of Leith; but such arrestment shall be executed by delivery of a schedule of arrestment at the record office of citations in the Court of Session, which delivery shall be made and the schedule registered and published in the same manner as charges are directed to be registered and published by an Act passed in the sixth year of the reign of his late Majesty King George the Fourth, intituled "An Act for the better "regulating of the forms of process in the courts of law in Scotland.

19. SHERIFF'S PRECEPTS OF ARRESTMENT MAY BE EXECUTED WITHIN JURISDICTION OF ANOTHER SHERIFF.—A warrant or precept of arrestment granted by any sheriff in Scotland, whether contained in a libelled summons or proceeding upon a depending action or liquid document of debt, may lawfully be executed within the territory of any other sheriff, the same being first endorsed by the sheriff clerk of such sheriffdom, who is hereby required to make and date such indorsation.

20. LORDS ORDINARY MAY RECALL OR RESTRICT ARRESTMENTS, SUBJECT TO REVIEW.—It shall be competent to the lord ordinary in the Court of Session before whom any summons containing warrant of arrestment shall be enrolled as judge therein, or before whom any action on the dependence whereof letters of arrestment have been executed has been or shall be enrolled as judge therein, and to the lord ordinary on the bills in time of vacation on the application of the debtor or defender by petition duly intimated to the creditor or pursuer, to which answers may be ordered, to recall or to restrict such arrestment, on caution or without caution, and dispose of the question of expences, as shall appear just; provided that his judgment shall be subject to the review of the inner house by a reclaiming note duly lodged within ten days from the date thereof.

21. SHERIFF MAY RECALL OR RESTRICT ARRESTMENTS, SUBJECT TO REVIEW.—It shall be competent for any sheriff from whose books a warrant of arrestment has been issued, on the petition of the debtor or defender duly intimated to the creditor or pursuer, to recall or to restrict such arrestment on caution or without caution, as to the sheriff shall appear just; provided that the sheriff shall allow answers to be given in to the said petition, and shall proceed with the further disposal of the cause in the same manner as in summary causes, and his judgment shall be subject to review in the Court of Session.

22. ARRESTMENTS TO PRESCRIBE IN THREE YEARS.— . . . All arrestments shall hereafter prescribe in three years instead of five; and arrestments which shall be used upon a future or contingent debt shall prescribe in three years from the time when the debt shall become due and the contingency be purified; . . . . . .

S. 22 *in part rep.* 56 *&* 57 *Vict. c.* 14 (*S.L.R.*).

23. COMPEARING CREDITORS TO BE CONJOINED, AND POINDED EFFECTS TO BE VALUED.—Where an officer of the law shall proceed to poind moveable effects, he shall, if required, before the poinding is completed, conjoin in the poinding any creditor of the debtor who shall exhibit and deliver to him a warrant to poind; and on the effects being

pointed the officer shall cause them to be valued by two valuators, and one valuation by them shall be sufficient.

24. Effects to be left with and Schedule given to the Possessor.—The officer shall leave the pointed effects with the person in whose possession they were when pointed; and he shall deliver to the possessor a schedule specifying the pointed effects, and at whose instance they were pointed, and the value thereof.

25. Officer to report Pointing within eight days.—The officer shall, within eight days after the day on which the pointing was executed (unless cause shall be shown why the same could not be done within the period of eight days), report the execution thereof to the sheriff, in which execution he shall specify the diligence under which the pointing is executed, the amount of the debt, the names and designations of the debtor and of the creditor at whose instance the effects were pointed, the effects pointed, the value thereof, the names and designations of the valuators, the person in whose hands they were left, and the delivery of the schedule as aforesaid; which execution shall be subscribed by him and by the two valuators, who shall also be witnesses to the pointing, without the necessity of other witnesses.

26. Sheriff to secure Moveables, &c. and order Sale.—On the execution being reported the sheriff shall, if necessary, give orders for the security of the moveables, and if they be of a perishable nature for the immediate disposal thereof, under such precautions as to him shall seem fit; and if not so disposed of, and if no lawful cause be shown to the contrary, he shall, if required, grant warrant to sell them by public roup, at such time and at such place, with such public notice of the sale, as may appear to the sheriff most expedient for all concerned, and at the sight of a judge of the roup to be named by the sheriff; provided that the sale shall not take place sooner than eight days nor at a longer period than twenty days after the date of the publication of the said notice of sale; and the sheriff shall order a copy of the warrant of sale to be served on the debtor, and on the possessor of the pointed effects, if he be a different person from the debtor, at least six days before the date of the sale, excepting in the case of perishable effects.

27. Effects to be sold, or delivered to pointing Creditors.—The pointed moveables shall be offered for sale as ordered at upset prices not less than the appraised values thereof; but if no offerer appear, the effects, or such part thereof as, according to their appraised value, may satisfy the debt, interest, and expences due to the pointing creditor and conjoined creditor, shall be delivered by the judge of the roup to the said pointing creditor and conjoined creditor, or to his or their authorized agent, subject to the claims of other creditors, to be ranked as by law competent.

28. Report of Sale and Price to be lodged with Sheriff Clerk, &c.—On the moveables being sold or delivered as aforesaid, the judge of the roup shall within eight days after the date of the sale make a report to the sheriff of the said sale or delivery; and if the effects shall have been sold, he shall also within the said space of eight days lodge with the sheriff clerk the roup rolls, or certified copies thereof, and an account of the sum arising from and of the expences of the sale, which sum the sheriff may, if he shall see cause, order to be lodged in the hands of the sheriff clerk; and the said sum, after deduction of lawful charges, shall, if no cause be shown to the contrary, be ordered by the sheriff to be paid to the pointing creditor and conjoined creditor (provided the amount does not exceed the amount of the debt, interest, and expences), but subject to the claims of other creditors, to be ranked as by law competent; and the report and relative documents, when lodged, shall be patent to all concerned on payment of a fee of one shilling only.

29. Creditors may purchase.—Where any effects are exposed to sale as aforesaid, it shall be lawful for the pointer or any other creditor to purchase the same.

30. Unlawful Intromitter liable to imprisonment or double the appraised value.—If any person shall unlawfully intromit with or carry off the pointed effects, he shall be liable, on summary complaint to the sheriff of the county where the effects were pointed or where he is domiciled, to be imprisoned until he restore the effects or pay double the appraised value.

31. Act not to affect Landlord's Hypothec, &c.—Nothing herein contained shall affect the landlord's hypothec for rents, or any hypothec known in law.

32. Form of Citations, &c.—One Witness sufficient.—Extracts, citations, deliverances, schedules, and executions may be either printed or in writing, or partly both, and

excepting in the case of poindings, more than one witness shall not be required for service or execution thereof.

[*Ss.* **33, 34** *rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*).]

35. Diligence under this Act.—Provided always, that diligence executed under the provisions of this Act shall have the same effect as if such diligence had been executed by virtue of letters of horning or letters of caption, or if arrestments and poindings had been executed under the forms heretofore in use.

[*S.* **36** *rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*).]

SCHEDULES referred to in the foregoing Act.

No. 1.

Warrant to be subjoined to Extracts in the Court of Session, &c.

And the said lords grant warrant to messengers at arms in her Majesty's name and authority to charge the said A. personally, or at his dwelling place, if within Scotland, and if furth thereof by delivering a copy of charge at the record office of the keeper of the records of the Court of Session, [state what the party is decerned to do; if to pay money, specify the sum, interest, and expences; or if to fulfil an obligation, specify it as in the decree or other document,] and that to the said B. [specify the name of the person in whose favour the decree is pronounced] within [insert the appropriate days] next after he is charged to that effect, under the pain of poinding and imprisonment, [if the sum or any part thereof be payable at a future time, add here, "the terms of "payment being always first come and bygone,"] and also grant warrant to arrest the said A.'s readiest goods, gear, debts, and sums of money in payment and satisfaction of the said sum, interest, and expences; and if the said A. fail to obey the said charge, then to poind the said A.'s readiest goods, gear, and other effects, and, if needful for effecting the said poinding, grant warrant to open all shut and lockfast places in form as effeirs. Extracted [specify place and date].

[Extractor's signature.]

No. 2.

Execution of charge.

Upon the day of I messenger at arms [or officer of court], by virtue of [state nature and date of extract and decree, or document whereupon it proceeds,] at the instance of B. [specify name and designation of creditor] against A. [specify name and designation of debtor or obligant] passed and in her Majesty's name and authority lawfully charged the said A. to [state what the party has been charged to do; if to pay money, specify the sum, interest, and expences; or if to fulfil an obligation, specify it as in the extract], and that to the said B. within days next after the date of my said charge, under the pain of poinding and imprisonment. This I did by [state mode of execution, whether personally or otherwise,] before and in presence of C., witness to the premises.

[Officer's signature.]

[Witness's signature.]

No. 3.

Certificate of Registration of Execution of Charge.

Presented by A.B. [state name and designation], and registered in the general register of hornings on the day of .

[Keeper's signature.]

No. 4.

MINUTE in Bill Chamber for Warrant to imprison.

[Place and date.]

The charge being expired and registered as per execution and certificate produced, warrant is craved to search for, take, and apprehend the person of the said A. [specify name of debtor or obligant], and being so apprehended to imprison him within a tolbooth or other warding place, therein to remain until he fulfil the said charge, and, if necessary for that purpose, to open shut and lockfast places; and warrant also to magistrates and keepers of prisons to receive and detain the said A. accordingly.

(Signed) A.B., W.S.

[The clerk will subjoin]

Fiat ut petitur.

[Dated and signed by the clerk.]

No. 5.

MINUTE by Assignee, &c.

[Place and date.]

Warrant is craved [state what is craved for] at the instance of [specify name and designation of the applicant] as [assignee or otherwise, as the case may be], of [specify name and designation of the person at whose instance the extract was issued]. Produced herewith [assignation or confirmation, or other legal evidence of the acquired right, as the case may be.] Dated the day of
[and if for imprisonment, execution of expired charge and certificate of registration shall be produced and warrant craved as in No. 4].

(Signed) A.B.

[The clerk will subjoin]

Fiat ut petitur.

[Dated and signed by the clerk.]

No. 6.

WARRANT to be subjoined to Sheriff Court Extracts.

And I the said sheriff grant warrant to messengers at arms and officers of court to charge the said A. personally, or at his dwelling place [state what the party is decerned to do; if to pay money, specify the sum, interest, and expences; or if to fulfil an obligation, state the nature of it, as in the decree or other document], and that to the said B. [name of the person in whose favour the decree is pronounced], within [insert the appropriate days] next after he is charged to that effect, under the pain of poinding and imprisonment, [if the sum or document or any part be payable at a future time add here, "the terms of payment being first come and bygone,"] and also grant warrant in satisfaction of the said sum, interest, and expences to arrest the said A.'s readiest goods, debts, and sums of money; and if the said A. fail to obey the said charge, then to apprize, poind, and distrain all the said A.'s readiest goods, gear, and other effects; and, if needful for effecting the said poinding, grant warrant to open all shut and lockfast places in form as effeirs. Extracted, &c.

[Extractor's signature.]

No. 7.

CERTIFICATE of Registration of Execution of Charge in Sheriff Court.

Presented by A.B. [name and designation], and registered in the particular register of hornings for the shire of on the day of .

[Keeper or clerk's signature.]

No. 8.

MINUTE in Sheriff Court for Warrant to Imprison.

[Place and date.]

The charge being expired and registered as per execution and certificate produced, warrant is craved to search for, take, and apprehend the person of the said A. [name of debtor or obligant], and being so apprehended to imprison him within a tolbooth or other warding place, therein to remain until he fulfil the said charge, and, if necessary for that purpose, to open shut and lockfast places; and warrant also to magistrates and keepers of prisons to receive and detain the said A. accordingly.

(Signed) A.B.

[The clerk will subjoin]

Fiat ut petitur.

[Dated and signed by the clerk.]

No. 9.

MINUTE in Sheriff Court by Assignee, &c.

[Place and date.]

Warrant is craved [state what is prayed for] at the instance of [specify name and designation of the applicant,] as [assignee or otherwise, as the case may be,] of [specify name and designation of the person at whose instance the extract was issued and in whose right the applicant is,] produced herewith, [say assignation or confirmation, or other legal evidence of the acquired right, as the case may be]. Dated the day of , [and if for imprisonment, execution of expired charge and certificate of resignation shall be produced and warrant craved to imprison as in No. 8].

(Signed) A.B.

[The clerk will subjoin]

Fiat ut petitur.

[Dated and signed by the clerk.]

No. 10.

MINUTE for Warrant of Concurrence.

[Place and date.]

Warrant of concurrence by the lords of council and session is craved at the instance of [specify name and designation of applicant] for executing the within warrant against the within-designed [specify name of debtor or obligant]. A.B.

[If the application is to a sheriff, leave out "lords of council and session," and say sheriff of (inserting the shire).]

[The clerk of the bills or the sheriff clerk as the case may be, will subjoin]

Fiat ut petitur.

[Dated and signed by the clerk of the bills or sheriff clerk, as the case may be.]

CHAPTER CXVIII.

THE COURT OF SESSION (No. 2) ACT 1838 (*Short Titles Act*, 1896).

AN ACT to make certain Alterations in the Duties of the Lords Ordinary, and in the Establishment of Clerks and Officers of the Court of Session and Court of Commissioners for Teinds in Scotland, and to reduce the Fees payable in those Courts.[1] [16th August 1838.]

[1] *This Act is rep.* 13 & 14 *Vict. c.* 36, *s.* 56, *in so far only as it may be in any respect inconsistent or at variance with the provisions of that Act; and is also rep.* 20 & 21 *Vict. c.* 18, *s.* 8, *in so far as necessary to give effect to that Act.*

[*Preamble recites* 50 *Geo.* 3, *c.* 112; 55 *Geo.* 3, *cc.* 42, 70; 59 *Geo.* 3, *c.* 35; 1 *&* 2 *Geo.* 4, *c.* 38; 6 *Geo.* 4, *c.* 120; 11 *Geo.* 4 *&* 1 *Will.* 4, *c.* 69; 3 *&* 4 *Will.* 4, *c.* 13.]

1. Junior Lord Ordinary to act as one of the permanent Lords Ordinary.—The junior lord ordinary of the Court of Session for the time shall act as one of the permanent lords ordinary in the outer house, and shall be on the same footing in regard to the duties of preparing and deciding causes in the outer house with the other four permanent lords ordinary; and it shall accordingly be competent to enrol causes brought into court for the first time before the junior lord ordinary in the same manner as before any other of the four permanent lords ordinary, and the junior lord ordinary shall thereafter proceed in and determine the same in common form . . . . . .

S. 1 *in part rep.* 55 *&* 56 *Vict. c.* 19 (*S.L.R.*).

[*Ss.* **2, 3** *rep.* 55 *&* 56 *Vict. c.* 19 (*S.L.R.*).]

4. Lords Ordinary to be attached to both Divisions, &c.—The said lords ordinary in the outer house shall not be exclusively attached to either division of the court, but shall be attached equally to both divisions thereof; and the partibus written upon summonses, letters, or notes of suspension, advocation, or other writ by which a cause shall be originated in the outer house, shall set forth the particular division of the court to which the cause shall belong; and in the event of the cause being afterwards removed to the inner house by reclaiming note, cases, or otherwise, it shall be carried to the particular division so set forth; and the division to which the cause is to belong shall be stated in the weekly printed rolls: . . . . . .

S. 4 *in part rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*).

5. Principal Clerks of Session.— . . . The principal clerks of session shall . . . discharge the duties of the present clerks of the bills in all bill chamber proceedings which may take place in the inner house of the Court of Session.

S. 5 *in part rep.* 55 *&* 56 *Vict. c.* 19 (*S.L.R.*).

[*Ss.* **6–8** *rep.* 55 *&* 56 *Vict. c.* 19 (*S.L.R.*).]

9. Queen's Processes.— . . . Processes conducted on behalf of her Majesty shall hereafter be under the care of the clerks of session generally; . . . . . .

S. 9 *in part rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*), *and* 55 *&* 56 *Vict. c.* 19 (*S.L.R.*).

[*S.* **10** *rep.* 55 *&* 56 *Vict. c.* 19 (*S.L.R.*).]

11. Duties of Assistant Clerks.—The assistant clerks in the inner house shall, in addition to their other duties, take charge of all bill chamber cases brought into the inner house, and shall in like manner take charge of all jury cases in the inner house, ...

S. 11 *in part rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*).

12. Depute Clerks in the Outer House, and Assistants.—[*Recital*] There shall be five depute clerks in the outer house, who shall be appointed in the same manner as the depute clerks in the outer house now are, . . . and there shall be an assistant appointed to each depute clerk; and in addition to the duties at present performed by them, and to be performed by them before the lords ordinary . . . the depute clerks shall . . . on being directed by the lord president of either division, attend in rotation the circuits at which jury causes shall be tried, and shall act as clerks of court at such trials, each of the said depute clerks so attending receiving an allowance of three pounds three shillings per day during his necessary absence from Edinburgh, in full of all expences of each circuit: Provided always, that a depute and assistant clerk shall be attached to and shall attend at the bar of each of the five lords ordinary in the outer house as herein-after provided: And provided also, that it shall be competent to the lord president of either division, on application by any lord ordinary, to direct that any of the ordinary judges clerks of either division of the inner house, or any person receiving compensation or retired allowance under this Act, shall discharge such duties as the absence of any clerk officiating before or in attendance upon any lord ordinary, or the state of business depending before him, shall render necessary.

S. 12 *in part rep.* 55 *&* 56 *Vict. c.* 19 (*S.L.R.*).

[*S.* **13** *rep.* 55 *&* 56 *Vict. c.* 19 (*S.L.R.*).]

14. Duties of Keeper of the Register of Abbreviates of Adjudications.— . . . The office of keeper of the register of abbreviates of adjudications shall be abolished, and the duties thereof performed by the keeper of the register of hornings and inhibitions in such manner and subject to such conditions and regulations as her Majesty's principal secretary of state for the home department for the time being shall direct.

S. 14 *in part rep.* 55 *&* 56 *Vict. c.* 19 (*S.L.R.*).

[*Ss.* **15, 16** *rep.* 55 *&* 56 *Vict. c.* 19 (*S.L.R.*).]

17. Annuity Fund to Judges Clerks and Keepers of Inner House Rolls.—And whereas a fund has been accumulated under the provisions of the said recited Acts of the first and second years of the reign of his Majesty King George the Fourth, and the acts of sederunt of the Court of Session relative thereto, . . . Be it enacted, that the holders of the said accumulated fund shall be and they are hereby authorized and required to pay over and assign the said accumulated fund to the lord high treasurer or commissioners of her Majesty's Treasury or to such person or persons as they shall appoint, who is or are hereby empowered to require an account thereof, and call for and receive the same, and discharge the holders thereof, and which shall be applied and disposed of as the said lord high treasurer or commissioners may think fit to direct; and life-rent annuities shall be payable and paid to the said existing annuitants and judges clerks and keepers of the inner house rolls, and their successors in office, equivalent to those which they would have had right to receive under the provisions of the said last-recited Act and acts of sederunt relative thereto, and in the manner and under the conditions therein contained, out of the monies which by the Acts of the seventh and tenth years of the reign of her Majesty Queen Anne were made chargeable with the fees, salaries, and other charges allowed or to be allowed for keeping up the courts of Session, Justiciary, and Exchequer in Scotland.

S. 17 *in part rep.* 53 *&* 54 *Vict. c.* 51 (*S.L.R.*).

18. Extractors.— . . . The duty of preparing and superintending the preparation of extracts shall be intrusted to one principal extractor, to be appointed by her Majesty, and such principal extractor shall not practise before the Court of Session, or hold any official situation in the said court other than in terms of this Act, and shall attend in and perform the duties of the office in person, with the aid of one assistant nominated by him and holding an appointment at pleasure under him, and for whom he is to be responsible, and who, in the event of absence from necessary cause of such principal extractor, shall be empowered to subscribe and authenticate the extracts; and in preparing extracts, and record copies thereof, printed forms, in manner or to the effect required by the said Act of the fiftieth year of his Majesty King George the Third, shall be used, the blanks in such forms being filled up in writing; and such principal extractor shall from time to time employ such ingrossing clerks as he shall think necessary for the performance of the business of the office: Provided always, that in any new appointments to be made under this Act a preference shall be given to persons removed from any office under this Act who may be duly qualified to discharge the duties thereof: Provided also, that the junior principal clerk of session for the time being shall superintend and direct the preparation of extracts, by giving such directions or instructions from time to time as he may think fit or be by the court directed to give, which directions or instructions the extractor is hereby required to comply with: Provided always, that in order to give due efficiency to the foregoing provisions the junior clerk of session for the time being, from time to time as he may think proper, and at any rate, shall, fourteen days before the termination of each winter and summer session of the court, report to the court how far the duties of the principal extractor and his assistants and clerks are properly discharged, with such other matters touching the same as he shall deem fit to be so reported.

S. 18 *in part rep.* 55 *&* 56 *Vict. c.* 19 (*S.L.R.*)

19. Salaries of Extractors.—Payments to Ingrossing Clerks.—The principal and assistant extractors shall be paid wholly by salaries; . . . and the ingrossing

clerks shall be paid at the rate of fourpence for each page of one hundred and fifty words, and sixpence for each page of states or schemes in figures, without any further charge for printing or stationery; the party ordering the first extract paying as aforesaid for each page both of the copy given out and of the record copy; and it shall be held illegal and an act of malversation in office for the principal or assistant extractor to participate in the charges for copying payable to such ingrossing clerks.

S. 19 *in part rep.* 55 & 56 *Vict. c.* 19 (*S.L.R.*).

20. Duties of Keeper of the Records.—The office of keeper of the records . . . is hereby abolished; and the duties of the office shall be performed by the principal extractor and his assistant, with the aid of a clerk, in case it shall appear to the said principal extractor to be proper and necessary to appoint such clerk, who shall receive such salary, not exceeding one hundred pounds per annum, as shall be fixed by the said principal extractor; and no fees shall hereafter be received by any person performing the duties of the said office.

S. 20 *in part rep.* 55 & 56 *Vict. c.* 19 (*S.L.R.*).

21. Keeper of the Minute Book and Record of Edictal Citations.—The offices of keeper of the minute book and keeper of the record of edictal citations shall, upon the death, resignation, or removal of the present incumbents, be conjoined, and the duties thereof performed by one officer, who shall be appointed by her Majesty; and these duties shall be performed by the holder of the said offices in person, with the aid of a clerk . . . ; and such officer shall receive a fixed salary of three hundred pounds per annum . . . in lieu of all fees or perquisites, and of any profits arising from the sale of the minute book or otherwise; . . . . . .

S. 21 *in part rep.* 52 & 52 *Vict. c.* 54, *s.* 6, 53 & 54 *Vict. c.* 51 (*S.L.R.*), *and* 55 & 56 *Vict. c.* 19 (*S.L.R.*).

[*Ss.* **22, 23** *rep.* 55 & 56 *Vict. c.* 19 (*S.L.R.*).]

24. Auditor to be paid by Salary.—The auditor of accounts in the said court, instead of being paid by fees, shall receive a fixed salary of seven hundred pounds per annum, with the accommodation of office room, or such a reasonable allowance for the same as the said court shall direct.

[*S.* **25** *rep.* 55 & 56 *Vict. c.* 19 (*S.L.R.*).]

26. Teind Clerks.—The office of the principal clerk of the commissioners for teinds shall be and the same is hereby abolished, and the business heretofore discharged by the teind clerks shall be in future discharged by the present first and second depute clerks of teinds and their successors in office, the said present first clerk being hereafter to be named the clerk of teinds, and the said present second clerk being hereafter to be named the depute clerk of teinds; and upon the death, resignation, or removal of the said clerk or depute clerk their successors shall be appointed by her Majesty, . . . Provided always, that it shall be lawful for her Majesty, to appoint a fit person to be keeper of the records in the teind office, . . . in case it shall be judged expedient to make such appointment; and it shall be the duty of such keeper to arrange and index the records and processes in the teind office, so as to render them useful and accessible to the public, and to perform such other duties in the said office as may be directed in his commission, or by the Court of Session in virtue of the powers herein given.

S. 26 *in part rep.* 55 & 56 *Vict. c.* 19 (*S.L.R.*).

27. Teind Clerks, Extracts, Accounts, &c.—The provisions and regulations for abridging the form of extracting decrees of the Court of Session contained in the said recited Act of the fiftieth year of the reign of his Majesty King George the Third and in this Act shall be and the same are hereby extended and applied to extracts of acts and decreets pronounced by the court of commissioners for teinds, except in processes of valuation of teinds and other cases where full extracts may be required by the parties; and the provisions and regulations which are or may be applicable to auditing of accounts of expences in the Court of Session by the auditor of court shall be and the same are hereby extended and applied to accounts of expences in the court of commissioners for teinds, which shall be subject to be audited and taxed by the said auditor

in like manner as accounts of expences in the Court of Session; and the business of the teind office shall in other respects continue as at present: Provided always, that in those cases in which the clerk of teinds may be appointed by remit from the court or lord ordinary, or may be employed by any party or parties in a cause, to act as an accountant, or in the preparation of states, schemes, or calculations for regulating or adjusting the rights of parties, the charges to be made by the clerk of teinds shall be regulated according to the time and labour in each particular case, but subject to the review and taxation of the auditor of the Court of Session in like manner as accounts of expences; and the emoluments arising from such remits to or employment of and charges by the said clerk of teinds shall belong to such clerk of teinds: Provided further, that it shall be competent to the court or lord ordinary, wherever it shall appear necessary for the due despatch of business, to make such remits to act as aforesaid to any other properly qualified person; and that it shall be competent to the parties, by mutual agreement, to employ any person whom they shall think proper to act as aforesaid, except in the preparation of schemes of locality: Provided also, that the said depute clerk of teinds shall continue to discharge the duty of extracting acts and decrees pronounced by the court of commissioners for teinds, and shall receive payment for preparing the same at the rate of sixpence for each page of one hundred and fifty words, and one shilling for each page of states or schemes in figures, without any further charge for printing or stationery, the party ordering the first extract paying as aforesaid for each page both of the copy given out and of the record copy.

28. Fees.—The fees contained in the schedule annexed to this Act . . . shall hereafter be paid . . . . . .

S. 28 *in part rep.* 55 *&* 56 *Vict. c.* 19 (*S.L.R.*).

29. Admiralty Summonses.—Summonses in admiralty causes may be raised and pass under the signet in like manner as other summonses before the Court of Session now do.

30. Officers of Court may be summarily removed for Neglect or Malversation.—If any clerk, extractor, or other officer of court shall neglect his duty, or shall be guilty of any malversation in office, or shall exact or receive any fees or perquisites other than those due to him in virtue of his office or contrary to law, it shall be competent for the Court of Session, on such charge or charges being proved in any summary application by petition and complaint at the instance of the party or parties aggrieved or of her Majesty's advocate for the time being, to pronounce such judgment as in the circumstances of the case may seem just, not exceeding deprivation of office and expences of the proceedings, besides the repayment of any such fees or perquisites unduly received, which shall be paid either to the party complaining or to the fee fund as the court shall direct.

[*Ss.* **31, 32** *rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*).]

33. Court of Session to make Regulations by Acts of Sederunt.—The Court of Session shall be and is hereby empowered from time to time to make such further regulations by act of sederunt as the said court may deem meet, for the purpose of carrying into effect the purposes of this Act, and of duly apportioning the business and regulating the duties to be performed by the several clerks and officers of court, and also for the purpose of regulating any additional duties which the court may think fit to require to be performed by any of the judges clerks; and which regulations such clerks and officers shall be respectively bound to observe without any claim to further remuneration; and the said court may meet for the above purposes during vacation as well as during session, and may alter and amend such regulations from time to time: Provided also, that within fourteen days from the commencement of every future session of Parliament there shall be transmitted to both Houses of Parliament copies of all acts of sederunt passed under the powers herein given.

[*S.* **34** *rep.* 55 *&* 56 *Vict. c.* 19 (*S.L.R.*). *S.* **35** *rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*).]

SCHEDULE of Fees or Dues (referred to in this Act).

INNER HOUSE AND COURT OF TEINDS.

	s.	*d.*
Original petitions, and petitions and complaints, or any other writ or step by which a cause is originated; also answers thereto, or other first step for a respondent or other party; each paper, printed	15	0
written	12	6
Condescendences, answers, and revised or amended condescendences and answers, with or without pleas in law annexed, each paper, printed	10	0
written	7	6
Cases, and revised or supplementary cases, each, printed	10	0
written	7	6
Reclaiming notes, with or without appendices, also petitions and answers, not being first steps, each, printed	10	0
written	7	6
Notes to the lord president and answers thereto, minutes and answers thereto, each, printed	5	0
written	2	6
Notes of additional or supplementary pleas in law	7	6
Each other step or pleading in the inner house, not enumerated in this schedule, printed	10	0
written	7	6

OUTER HOUSE.

Summonses of every kind, and defences thereto; also letters or notes of suspension and any other writ, pleading, or step whereby a cause is originated or by which a party first makes appearance in any cause, each	10	0
Reasons, or revised or amended reasons of suspension and answers or revised and amended answers thereto, with or without notes of pleas in law annexed, each	5	0
Condescendence and answers, revised or amended condescendence, and revised or amended answers, with or without notes of pleas in law annexed, each	5	0
Notes of additional or supplementary pleas in law	5	0
Inventories to satisfy production, and inventories of titles in teind causes, each	5	0
Cases, and revised or supplementary cases	7	6
Minutes and answers thereto, notes and answers thereto, each	2	6
Objections, revised objections, answers and revised answers thereto, each	2	6
Condescendence and claims or interests in multiplepoindings, rankings, &c., and revised ditto, where the sum claimed is upwards of L.10, each	2	6
(No charge where for L.10 or under.)		
Each other step or pleading in the outer house, not enumerated in this schedule	7	6

BILL CHAMBER.

Bills or notes of suspension, suspension and interdict, and answers thereto, or other original application or first step, except plack bills, each	5	0
Bills for loosing arrestments and answers thereto, notes and answers thereto, each	2	6
Account of expences, each (see "Miscellaneous Papers")	2	6
Bonds of caution on being taken out	2	6
Certificates or extracts of judgment	2	6

EXTRACTS.

Decrees of locality (instead of L.4, 13s. 4d. presently paid to the teind clerks, besides other fees)	40	0
Decrees of valuation (instead of L.7, 4s. 6d. presently paid to the teind clerks, besides other fees)	40	0
All other decrees, if in foro	15	0
Decrees in absence, acts, abbreviates of adjudication, diligences, and protestations, each	10	6

MISCELLANEOUS PAPERS.

	s.	d.
Certified copy of proceedings for appeal to the House of Lords	40	0
Certified copy of pleadings or interlocutors by a principal clerk or his assistant	2	6
Oaths of parties, witnesses, or havers, if in presence of a lord ordinary or the inner house, each	2	6
if on commission	1	0
Bonds of judicial caution, on being taken out	10	0
Prepared states and schemes, printed	15	0
written	10	0
Memorials and abstracts	10	0
Minutes of election of a common agent	2	6
For printed additional appendices or other papers, boxed for the judges of the inner house, not being pleadings in the cause, each	2	6
Notes for searches, if under ten years from the date of the order, each search	2	6
10 years and under 25	7	6
25 years and upwards	12	6
for extracted processes in the teind record	5	0
Accounts of expences	5	0
And in lieu of the auditor's fees at present payable, the following rates :—		
Accounts under L.10	2	6
L.10 and under L.20	5	0
L.20 and under L.50	7	6
L.50 and under L.100	10	0
L.100 and under L.150	15	0
L.150 and under L.200	20	0
L.200 and under L.300	30	0
L.300 and under L.500	40	0
L.500 and under L.600	60	0
And for accounts exceeding L.600 the fee to be increased at the rate of 5s. for every L.100 or part of L.100.		

The fees in the preceding schedule to apply to all causes and proceedings in the Court of Session and court of commissioners for teinds, and also to jury causes; but shall not apply to . . . applicants for the benefit of the poor's roll or persons pursuing or defending in formâ pauperis, nor to any proceedings which are at present exempt from fees by any Act of Parliament now in force.

Schedule in part rep. 55 & 56 *Vict. c.* 19 (*S.L.R.*).

CHAPTER CXIX.

THE SHERIFF COURTS (SCOTLAND) ACT, 1838 (*Short Titles Act*, 1896).

AN ACT to regulate the Constitution, Jurisdiction, and Forms of Process of Sheriff Courts in Scotland.[1] [16th August 1838.]

[1] *This Act is rep.* 16 & 17 *Vict. c.* 80, *s.* 51, *in so far only as may be necessary to give effect to the provisions of that Act.*

So much of this Act as relates to the courts to be held by each sheriff depute in his county, excepting the counties of Orkney and Shetland, rep. 16 & 17 *Vict. c.* 80, *s.* 46.

[*Preamble.*]

[*S.* 1 *rep.* 37 & 38 *Vict. c.* 96 (*S.L.R.*).]

2. SHERIFF DEPUTE TO HOLD COURTS IN HIS SHERIFFDOM, AND TO BE AN ADVOCATE OF AT LEAST THREE YEARS STANDING, &C.—Every sheriff depute shall attend personally within his sheriffdom upon all necessary and proper occasions, and shall, unless prevented by indisposition or other necessary cause of absence arising from his official duties, hold at least four ordinary courts within his sheriffdom for the exercise of his ordinary civil or criminal jurisdiction during each period between the first day of

December and the twelfth day of May ensuing, and other four such courts during each period between the first day of June and the twelfth day of November ensuing, except in the sheriffdom of Orkney and Zetland, wherein the sheriff depute shall hold at least eight such courts during each period between the first day of December and the twelfth day of November ensuing, four such courts being held in Orkney and four in Zetland; and each sheriff shall, fourteen days previously, announce the periods of holding such courts by a notice put up in the sheriff court rooms, and shall within ten days after the twelfth day of November annually make a return to her Majesty's principal secretary of state for the home department of the number of courts held by him, and causes disposed of as aforesaid, from the first day of December preceding, stating the cause of absence in case he shall not have held courts as herein provided; and every person who shall be hereafter appointed to the office of sheriff depute shall be an advocate of three years standing at least, and shall have been at the time of his appointment in practice before and in habitual attendance upon the Court of Session or acting as a sheriff substitute; . . . and if any such sheriff, . . . shall not hold courts within his sheriffdom, . . . it shall be competent for her Majesty's advocate to present a summary petition and complaint to the Court of Session complaining of such sheriff not holding courts . . .; and the same being thereupon duly investigated and established upon a summary trial before the said court, such sheriff shall be admonished for the first offence, and for the second shall be deprived of his office.

S. 2 *in part rep.* 33 *&* 34 *Vict. c.* 86, *s.* 13, *and* 55 *&* 56 *Vict. c.* 19 (*S.L.R.*).

[*S.* **3** *rep.* 53 *&* 54 *Vict. c.* 51 (*S.L.R.*).]

4. Appeals from Sheriff Substitute.—*On the death, resignation, or removal of any sheriff depute, his substitute or substitutes shall continue to hold his or their offices* [*rep.* 53 *&* 54 *Vict. c.* 51 (*S.L.R.*)] . . . : Provided always, that appeals may be taken in causes decided by such sheriff substitute to the sheriff to be appointed, which shall be laid before such sheriff when he shall enter upon his office.

S. 4 *in part rep.* 53 *&* 54 *Vict. c.* 51 (*S.L.R.*).

5. Sheriff Substitutes to reside within their Sheriffdoms; and not to act as Agents, &c. or hold any other Office.—Every person holding the office of sheriff substitute and receiving salary on that account shall reside personally within his jurisdiction, and shall not be absent therefrom more than six weeks in any year, nor for more than two weeks at any one time, nor so as to interfere with the regular sittings of his court, without the special consent in writing of the sheriff of such county for the time being, who shall be bound, in the event of his giving such consent, either to attend personally during the absence of such substitute, or to appoint another fit person as substitute to act in his stead; and it shall not hereafter be lawful for any sheriff substitute so receiving salary to act as agent either in legal, banking, or other business, or as conveyancer, factor, or chamberlain, except for the crown, or to be appointed to any office, except such office as shall be by statute attached to the office of sheriff substitute.

6. Superannuation Allowances to Sheriff Substitutes.—Her Majesty may grant an annuity, payable in like manner as salaries to sheriff substitutes, to any person who has held, now holds, or may hereafter hold the office of sheriff substitute, according to the proportions and with reference to the amount of their salaries and the periods of their services as herein-after mentioned, if from old age or any permanent infirmity such person has been or shall hereafter be disabled from the due exercise of his office: Provided always, that such annuity shall not exceed one third of the salary payable to such person in case the period of his service shall have been not less than ten years, and shall not exceed two thirds of such salary in case the period of service shall have been not less than fifteen years, and shall not exceed three fourths of such salary in case the period of service shall have been not less than twenty years or upwards: Provided also, that no such annuity shall be granted unless such sheriff substitute shall have duly fulfilled the duties of his office during one of the periods before mentioned, and is from old age or permanent infirmity disabled from the due exercise of his office, which facts shall be certified by the lord president, the lord justice clerk, and the lord advocate for the time being, as having been established to their satisfaction by proper evidence.

[*S.* **7** *rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*).]

8. Summary Complaint for removing from Premises let for less than a year at a low rent.—[*Recital*] Where houses or other heritable subjects in Scotland are let for any shorter period than a year at a rent of which the rate shall not exceed thirty pounds per annum, it shall be competent for any person, authorized by law to pursue a removing therefrom, to present a summary complaint to the sheriff of the territory, who shall order it to be served, and the defender to appear on such day as he may in each case think proper, in the form or to the effect of schedule (A.) annexed to this Act.

9. Decree may be pronounced in Absence, but Defender may repone against Decree, &c.—If the defender shall fail to appear after being duly cited, the sheriff shall proceed to determine the cause in the same manner as if the defender had been personally present: Provided always, that where the decree shall have been pronounced in absence, and shall not have been carried into execution, the defender may present a petition to the sheriff for a further hearing of the cause, with evidence of intimation thereof having been made to the opposite party written thereon, and the sheriff, if he shall see cause, and upon payment by the defender to the complainer of such expences as the sheriff may judge reasonable, may recall his decree, and proceed to hear and determine the cause as on the original complaint without delay; and provided also, that where decree shall be pronounced in absence, the sheriff may give such order for preservation of the goods and effects of the defender as he may deem proper.

10. Citation of Witnesses, and Allowance of Fees—7 Will. 4 & 1 Vict. c. 41.—The complaint or copy thereof served on the defender shall be a sufficient warrant to any sheriff officer to cite witnesses or havers for either party to appear on the day of trial, and give evidence in such summary cases of removing; and the fees allowed to the clerk or officers of court on such complaint and proceedings shall be the same as those allowed on summonses and similar proceedings in small debt causes in sheriff courts in Scotland, under an Act passed during the last session of Parliament, intituled "An Act for the more effectual recovery of small debts in the sheriff courts, and for "regulating the establishment of circuit courts for the trial of small debt causes by the "sheriffs, in Scotland": Provided always, that the travelling expences of officers and their assistants under the said recited Act and this Act shall not be allowed for more than the distance from the residence of the officer employed to the place of execution or service, in case such distance shall be less than from the court house to such place, and the sheriff shall have power to modify such expences in case the officer residing nearest to the place of execution or service shall not be employed; and provided also, that such travelling expences shall not be allowed against an opposite party for a greater distance than twelve miles.

11. Citation and farther Procedure in Removings to be the same as provided for Small Debt Causes—Judgments to be final.—The citation and farther procedure in such summary removings shall, in so far as not provided for by this Act, be the same as those established by the said recited Act for the trial of small debt causes in sheriff courts; and where decree of removing is pronounced it shall be in the form or to the effect of the said schedule (A.), and shall have the full force of a decreet of removing and warrant of ejection; and the judgments to be pronounced in such summary actions of removing shall be final, and not subject to review either in the circuit court of justiciary or in the Court of Session.

12. Sheriff may adjourn the Cause, &c.—The sheriff may, of consent of parties, or where the ends of justice require it, adjourn the further hearing of or procedure in any summary process of removing raised under the authority of this Act, and he may likewise order written answers to be given in to the complaint; and all such orders shall be final, without being subject to appeal or advocation: Provided always that the sheriff shall, in all such cases where the defences cannot be instantly verified, ordain the defender to find caution for violent profits.

13. Where Defender has found Caution he may give in written Answers to Complaint, &c.—In all cases where the defender has found caution, he shall be allowed to give in written answers to the complaint; and in all cases where written answers shall be ordered, such cases shall thereafter be conducted, as nearly as may be, according to the forms in use in ordinary processes of removing, and the judgment of the sheriff therein shall be subject to review in common form.

14. Privileged persons not exempt from Sheriff's Jurisdiction.—No person

shall be exempt from the jurisdiction of the sheriff in any process of removing raised under the authority of this Act, on account of privilege. . . . . .

S. 14 *in part rep.* 55 *&* 56 *Vict. c.* 19 (*S.L.R.*).

15. Sheriff's Jurisdiction extended to Questions of Nuisance and Servitude.—The jurisdiction, power, and authority of sheriffs of Scotland shall be and the same are hereby extended to all actions or proceedings relative to questions of nuisance or damages arising from the alleged undue exercise of the right of property, and also to questions touching either the constitution or the exercise of real or prædial servitudes; and all parties against whom such actions or proceedings may be brought shall be amenable to the jurisdiction of the sheriff of the territory within which such property or servitude shall be situated.

16. Transmission Book to be kept by Sheriff Clerks.—The sheriff clerk of every sheriff court shall keep a book in which he shall enter in a tabular form, in columns, in the form of schedule (B.) hereto annexed, every cause transmitted to the sheriff or sheriff substitute in order to be advised, specifying, in separate columns, ordinary and summary causes, the sheriff to whom the same has been transmitted, the date of such transmission, the date of the cause being received by the sheriff and returned advised, and any remarks which the sheriff may enter or direct to be entered in such book relative to any such cause; and an inventory of the process shall be kept by the clerk, in which the borrowing and returning of processes shall be entered; and no process shall be given up by the clerk without a receipt upon such inventory.

[*S.* **17** *rep.* 55 *&* 56 *Vict. c.* 19 (*S.L.R.*).]

18. Sheriffs may repone against Decrees in Absence.—Where decree in absence in any civil cause shall have been pronounced or extracted in any sheriff court, other than in causes in the small debt court, or in processes of removing raised under authority of this Act, a petition may be presented to the sheriff court in which such decree was pronounced to be reponed against the said decree, and any letters of horning or charge following thereon, where the same shall not have been implemented in whole or in part; and on cognisation in the hands of the clerk of court of the expences incurred, as the same may be modified on taxation, the said sheriff shall repone the defender, and revive the action or proceeding in which such decree had been pronounced, as if decree had not been pronounced or extracted, and shall have power to award to the pursuer such part of the expences consigned as he may judge reasonable; and the sheriff shall pronounce such order for intimation to and appearance of the opposite party as may be just; and such order may be executed against a person in any other county as well as in the county where such order is issued, the same being previously indorsed by the sheriff clerk of such other county, who is hereby required to make and date such indorsation; and such order being so made and executed, all further orders and interlocutors in the cause shall be sufficient and effectual.

19. Suspensions competent in Sheriff Courts in cases of charges for sums not exceeding L.25.—Where a charge shall be given on a decree of registration proceeding on a bond, bill, contract, or other form of obligation registered in any sheriff court books, or in the books of council and session, or any others competent, or on letters of horning following on such decree, for payment of any sum of money not exceeding the sum of twenty-five pounds of principal, exclusive of interest and expences, any person so charged may apply by petition to the sheriff court of his domicile for suspension of the said charge and diligence, on caution; and on sufficient caution being found in the hands of the clerk of court for the sum charged for and interest and expences to be incurred in the sheriff court, the sheriff shall have power to sist execution against the petitioner, and to order intimation of the petition of suspension, and answers to be given in thereto, and thereafter to proceed with the further disposal and decision of the cause in like manner as in summary causes in such court, and to suspend the charge and diligence so far as regards the petitioner; provided that the said order for intimation and answers as aforesaid may be made and carried into execution against any person in any other county as well as in the county where such order is issued, in manner and to the effect herein-before provided.

20. Sheriff's Judgment on Preliminary Objection to Suspension final.—If any petition of suspension as aforesaid shall be presented in any sheriff court, and a pre-

liminary objection be made to the competency of such petition, or to the regularity thereof, an appeal against the judgment of the sheriff substitute repelling or sustaining such objection may be taken in common form to the sheriff, whose judgment thereon shall be final, and not subject to review either in the circuit court of justiciary or in the Court of Session.

21. Sheriffs to have Jurisdiction in Maritime Causes where Defender is amenable to their Jurisdiction, &c.—[*Recital of* 11 *Geo.* 4 *&* 1 *Will.* 4, *c.* 69, *s.* 22] The said recited Act shall be construed and held to mean that the powers and jurisdictions formerly competent to the High Court of Admiralty of Scotland in all maritime causes and proceedings, civil and criminal, shall be competent to the said sheriffs and their substitutes, provided the defender shall, upon any legal ground of jurisdiction, be amenable to the jurisdiction of the sheriff before whom such cause or proceeding may be raised; and provided also, that it shall not be competent to the sheriff to try any crime committed on the seas which it would not be competent for that judge to try if the crime had been committed on land.

22. Caution judicatum solvi, &c. not requisite in Maritime Causes in Sheriff Courts.—In maritime causes or proceedings raised or brought before any sheriff court in Scotland caution judicatum solvi or de damnis et impensis shall not be required in any such cause or proceeding from any party who shall be domiciled in Scotland, any law or practice to the contrary notwithstanding, unless the judge shall require it on special grounds, to be stated in the interlocutor requiring the same, or a note annexed thereto.

23. Summonses, &c. in Sheriff Courts to be served in presence of one Witness.—Summonses, petitions, complaints, charges, arrestments, and other proceedings in sheriff courts, excepting poindings, shall be deemed to be duly served and executed, provided the same shall be served or executed by the usual officer of the law in such courts in presence of one person, who shall witness such service or execution, and both of whom shall attest the execution of the same by their subscriptions in common form.

24. Citation of Parties, Witnesses, and Havers.—[*Recital*] It shall be competent to cite all persons within Scotland as parties in any civil or criminal action or proceeding in any sheriff court, who may be amenable to the jurisdiction of such court in respect of such action or proceeding, by the warrant of such sheriff court; and it shall also be competent to cite witnesses and havers within Scotland in any civil or criminal action or proceeding in any such courts by the warrant of such courts; and all such warrants shall have the same force and effect in any other sheriffdom as in that in which they were originally issued, the same being first endorsed by the sheriff clerk of such other sheriffdom, who is hereby required to make and date such endorsation; and such citation duly made shall be deemed to be due and regular citation; and if any witness or haver duly cited shall fail to appear, it shall be competent to any party, for whom such witness or haver is cited, to apply for a new warrant to compel his attendance at such court, at such reasonable time as may be fixed, which warrant shall require such witness or haver to attend as aforesaid, under a penalty not exceeding forty shillings, unless a reasonable excuse be offered and sustained; and every penalty shall be paid to the party applying for the new warrant as aforesaid, and shall be recovered in the same manner as penalties under the before-recited Act for the more effectual recovery of small debts in the sheriff courts, or under any Act by which the same shall have been or may be repealed, altered, or amended, without prejudice always to letters of second diligence for compelling witnesses and havers to attend as at present competent; and it shall be competent to execute and carry into effect such letters of second diligence in any other sheriffdom, the same being endorsed by the sheriff clerk of that sheriffdom, as before provided: Provided always, that nothing in this Act contained shall affect the competency of applying for and obtaining letters of supplement in common form for the purpose of citing such parties, witnesses, or havers; and provided also, that it shall be no objection to any witness or haver that he has appeared without citation.

25. Sheriff's Criminal Warrants may be executed out of the County.—Any criminal warrant granted by any sheriff against any person charged with having committed a crime or offence within the jurisdiction of the said sheriff, and also any warrant granted by a sheriff against a person as being in meditatione fugæ, shall be sufficient for the apprehension of the said person within any other county, and for conveying and disposing of the said person in terms of the warrant, without the necessity

of its being backed or endorsed by any other magistrate: Provided always, that the said warrant shall be executed against the person mentioned therein either by a messenger at arms or by an officer of the court where the same was issued.

[*S.* 26 *rep.* 53 *&* 54 *Vict. c.* 51 (*S.L.R.*).]

27. Persons residing beyond a certain distance from Court House not to be summoned on Sheriffs Juries in certain Counties.—[*Recital*] Except in the counties of Haddingdon, Linlithgow, Peebles, Selkirk, Kinross, Clackmannan, Nairn, and Cromarty, it shall no longer be necessary to summon persons to attend at any sheriff court to serve as jurors in any criminal cause who shall reside beyond such distances from the court house at which the jurors shall be summoned to attend as may from time to time be fixed by the several sheriffs of the several counties with the approbation of her Majesty's principal secretary of state for the home department; and upon such limits being fixed the sheriff clerks of the several counties, except as aforesaid, shall make up and correct, in manner provided by law, lists of persons qualified to serve as jurors resident within such limits from each court house at which the sheriff or his substitute hold courts, which jurors are or may be summoned to attend: Provided always, that in Orkney and Zetland the jurors shall be summoned from the main land of each district respectively; and that the attendance of jurors at sheriff courts shall not exempt them from attendance at circuit courts of justiciary in their ordinary course of rotation as heretofore; . . . . . .

S. 27 *in part rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*).

28. Fees to be received by and Salaries of Sheriff Clerks.—[*Recital*] The table of fees contained in Schedule (C.) hereto annexed, and to be contained in any additional table which may be framed in terms hereof and no others shall be exacted and received by all sheriff clerks to be hereafter appointed, subject to such addition thereto or alteration thereof as may be made by the lord high treasurer of the United Kingdom of Great Britain and Ireland, or by the commissioners of Her Majesty's Treasury a copy of such alteration being always notified two months in the Edinburgh Gazette before being made effectual, and being also laid before both Houses of Parliament within one month after the making thereof, or, if Parliament shall not be then sitting, within fourteen days after the next meeting thereof; and the said lord high treasurer or commissioners shall fix the salary which any future sheriff clerk shall receive, and which shall be payable and paid by or out of the fees and emoluments in civil and criminal proceedings exigible, and received by such sheriff clerks respectively; and any surplus of such fees and emoluments, after satisfying such salaries, shall be applied towards defraying the expences attending the establishment of the sheriff court and sheriff small debt circuit courts within the county in which such fees and emoluments shall be collected, in such manner, and subject to such regulations for ascertaining the amount of such surplus and accounting for the same, as the said lord high treasurer or commissioners shall direct; and where in any of the smaller counties the fees and emoluments which shall hereafter be received under the provisions of this Act may be insufficient for the maintenance of a person duly qualified to execute the duties of a sheriff clerk, it shall be lawful to the said lord high treasurer or commissioners to direct that a salary shall be payable to such sheriff clerk, in addition to the said fees, of such amount as they think necessary; and no person who shall hereafter be appointed to the office of sheriff clerk, or who shall acquire right to any fees or emoluments in any sheriff court, in virtue of the provisions of this Act, from and after the passing of the same, shall acquire a vested right to the fees or emoluments of such office, or shall be entitled to any compensation in consequence of the subsequent abolition of such office or fees, or of any alteration in the constitution of such office, or in the amount of such fees, or in the mode of paying such sheriff or officer, either by such fees or such salary as may hereafter be determined: Provided always, that it shall be lawful for the said commissioners by agreement with any existing sheriff clerk, to establish the table of fees hereby fixed or to be fixed under the authority of this Act in any sheriff courts, and to award to such sheriff clerk such compensation by way of additional salary as they may think fit; and all such salaries to sheriff clerks shall be payable out of the funds from which the salaries of sheriffs are payable: Provided always, that every sheriff clerk shall keep an account, stating in columns the amount of the different fees

drawn by such clerk under this Act, and the sources thereof, and shall annually, at the beginning of each year, render such account to the Treasury in such manner as they shall direct.

[*S.* **29** *rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*). *S.* **30** *rep.* 55 *&* 56 *Vict. c.* 19 (*S.L.R.*).]

31. Power of Court of Session under 6 Geo. 4, c. 23, to make Regulations by Acts of Sederunt, &c. not to be affected, &c.—6 & 7 Will. 4, c. 56.—Nothing herein contained shall in any way abridge or affect the power vested in the Court of Session to make and establish rules and regulations by acts of sederunt, as authorized by an Act passed in the sixth year of his Majesty King George the Fourth, intituled "An Act for the better regulation of the sheriff and stewart and burgh courts in "Scotland;" and the said court shall so frame such acts of sederunt as may be best calculated to carry into effect the purposes of this Act, and also of an Act passed in the sixth and seventh years of the reign of his late Majesty, intituled "An Act for regulat- "ing the process of cessio bonorum in the Court of Session, and for extending the juris- "diction of sheriffs in Scotland to such causes"; and also, if necessary, to alter or amend the table of fees for practitioners in sheriff courts, and adapt the same to the forms of process; and the Court of Session shall also from time to time make further orders and regulations to amend the forms and preserve uniformity in the proceedings and fees in all sheriff courts, the said court taking into consideration the reports laid before Parliament by the commissioners appointed under the sign manual of his late Majesty King William the Fourth, dated the sixth day of June one thousand eight hundred and thirty-three and the sixteenth day of August one thousand eight hundred and thirty-four; and the said court shall also by act or acts of sederunt from time to time adapt and apply to sheriff courts any alterations and amendments which may be made in the forms of proceedings in the Court of Session, so as to make them uniform in as far as it may be expedient so to do; and the said court may meet for the aforesaid purposes during vacation as well as during session, and may alter and amend such regulations from time to time; and all acts of sederunt so passed by the Court of Session shall in terms of the said recited Act of his Majesty King George the Fourth, apply to and receive effect in the courts of the royal burghs in Scotland as well as in the sheriff courts: Provided always, that within fourteen days from the commencement of every future session of Parliament there shall be transmitted to both Houses of Parliament copies of all such acts of sederunt.

32. Sheriffs to meet periodically and to submit propositions to the Court.—In order the better to carry into effect the purposes of the said recited Act and of this Act, and to preserve uniformity in the proceedings of sheriff courts, the several sheriffs of the several sheriffdoms shall meet together in Edinburgh in the first week of the first winter session of the said court after the passing of this Act, and at the like period every three years thereafter, and adjourn such meetings from time to time as they shall see cause; and at such meetings they shall consider how far uniformity of proceedings exists in sheriff courts, and any propositions which may be laid before them, or which they may deem proper to submit to the said court for attaining that object; and on or before the first day of January next ensuing after each such meeting the said sheriffs shall submit to the court any regulations which they may propose should be enacted by act of sederunt; and the same shall be printed and sent to the different sheriff courts, to be exhibited there for the space of fourteen days; and the said sheriff shall, on or before the twelfth day of March next ensuing, prepare and cause to be printed for the consideration of the court a revised draft; and on the meeting of the court in the summer session next ensuing the court shall take such draft into consideration, and pass an act of sederunt on or before the twelfth day of July following, in such terms as they shall think fit: Provided always, that nothing herein contained shall prevent the said sheriffs from meeting for the purposes aforesaid and submitting propositions as aforesaid to the said court at any other times, or the said court from passing any act or acts of sederunt under the powers herein-before given at any other times, as such sheriffs or such court respectively shall think proper; and provided also, that the necessary expences of such meetings of sheriffs and of preparing and printing such propositions shall be allowed in the annual accounts in exchequer of such one of the said sheriffs as may from time to time be appointed by them to be their convener, in the like manner as other ordinary expences of sheriffs are allowed

[*S.* **33** *rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*).]

34. Meaning of Words in this Act.—In all cases in this Act the word "person" shall extend to a partnership, or body politic, corporate, or collegiate, as well as to an individual; and every word importing the singular number only shall extend and be applied to several persons or things as well as one person or thing; and every word importing the plural number shall extend and be applied to one person or thing as well as several persons or things; and every word importing the masculine gender only shall extend and be applied to a female as well as a male: Provided always, that those words and expressions occurring in this clause, to which more than one meaning is attached, shall not have the different meanings given to them by this clause in those cases in which there is any thing in the subject or context repugnant to such construction.

[*S.* **35** *rep.* 51 *&* 52 *Vict. c.* 57 (*S.L.R.*). *S.* **36** *rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*).]

SCHEDULES referred to in the foregoing Act.

Schedule (A.)

No. 1.

Form of Summary Complaint.

Unto the honourable the sheriff of the county of

Complains A.B. [name and design the complainer] against C.D. [name and design the defender], that the complainer [or his author, as the case may be,] let to the said defender [or his author, as the case may be,] a dwelling house, garden, and pertinents [or other subjects, as the case may be,] situate in for the period from to ; that the said defender is bound to remove from the said subjects at the date last mentioned, and it is necessary to obtain decree of removing against him [or, as the case may be, refuses or delays to remove therefrom, although the period of his lease has expired]: Therefore decreet ought to be granted for removing and ejecting the said defender, his family, sub-tenants, cottars, and dependents, with their goods and gear, furth and from the said subjects, [here insert the date at which the removal or ejeetion is sought for, as the case may be,] that the complainer or others in his right may then enter to and possess the same. [If expences are sought, add, and the said defender ought to be found liable in expence of process and dues of extract.]

[Signature of the party or agent.]

No. 2.

Form of Warrant thereon.

The sheriff grants warrant to cite the said defender to compear personally before him at the court house [or elsewhere as the case may be,] upon the [insert the day of the month and hour, if need be], to answer the foregoing complaint, under certification of being held as confessed; ordains such citation to be made at least [state the period which the sheriff may fix to intervene betwixt the citation and diet of compearance,] previous to the said diet of compearance; and grants warrant to cite witnesses for both parties to appear, time and place foresaid, to give evidence in the said matter, under the pains of law. Given under hand of the clerk of court at the day of .

Sheriff clerk.

No. 3.

Form of Citation for Defender.

C.D., defender above designed, you are hereby summoned to appear and answer before the sheriff in the matter complained of, and that at [here specify time and place], under certification of being held as confessed.

This notice is served upon the day of by me

Sheriff officer.

No. 4.

FORM of Execution of Citation.

Upon the day of I duly summoned the above-designed C.D., defender, to appear and answer before the sheriff in the matter, and at the time and place and under the certification, above set forth. This I did by delivering a copy of the above complaint, with a citation thereto annexed, to the said defender personally [or otherwise, as the case may be].

Sheriff officer.

No. 5.

FORM of Decreet and Warrant of Ejection.

At the day of , the which day the sheriff [in absence of the defender, or having heard parties, as the case may be,] decerns and grants warrant for removing and ejecting the said C.D., defender, and others mentioned in the complaint, from the subjects therein specified, such ejection not being sooner than [here insert the time appointed for removal, and whether after a charge on such inducie as may be deemed proper, or instantly], finds the said defender liable in expences, [or otherwise, as the case may be,] and decerns. [Sheriff's signature.]

NOTE.—The whole of the above to be in the same paper.

SCHEDULE (B.)

TRANSMISSION Book to be kept by Sheriff Clerks.

Names of Cause, [as A. versus B., or A., Petitioner, &c.]		Date of Transmission to Sheriff Substitute.	If Proof led, state whether before Sheriff or Substitute or Commissioner, and its Duration.	Date of Case being returned and advised.	Date of Transmission to Sheriff.	Date of Cause being returned and advised	REMARKS.*
Ordinary Causes.	Summary Causes.						

* NOTE.—Where cases have been longer than ten days unadvised after transmission to the sheriff, the reason to be stated in this column.

Also the names of any commissioners to whom remits have been made to take proof.

SCHEDULE (C.)

TABLE of Fees in Civil Business for the Sheriff Clerks of Scotland.

	In Cases of L.12 and under.			Above L.12.		
	£	s.	d.	£	s.	d.
Libel, summons, or claim to found an action	0	0	9	0	1	3
When more defenders than one are sued for a separate debt or prestation, the above fees to be paid on one of the debts or prestations highest in amount, and a third of the above fees to be paid for each of the other debts or prestations, according to the amount of the claim against each defender or set of defenders.						
Certifying copy of libel, in terms of act of sederunt for sheriff courts, c. 18, s. 4	0	0	6	0	0	6
Summary petition or complaint (except petition of sequestration), and deliverance thereon	0	1	0	0	1	6
Defence, answer, or first paper for each defender or set of defenders, or compearer or set of compearers, in any action	0	0	6	0	1	0
Each paper or pleading, for either party subsequent to the first step, including objections and answers in a proof when stated in separate papers	0	0	3	0	0	6
Appeal to the sheriff depute	0	0	6	0	0	6
Receiving and marking each set of productions, except the productions lodged with the first paper for each party, for which no charge is to be made	0	0	3	0	0	3
Extracting each decreet in absence, in the abridged form	0	1	0	0	1	6
When a decreet is extracted against more defenders than one sued for a separate debt or prestation, the above fee of extract to be paid on one of the debts or prestations highest in amount, and a third of the above fee for extract to be paid on each of the others, according to the amount of the claim against such defender or set of defenders.						
Extracting each decree in foro, in the abridged form	0	2	0	0	2	6
If the decree, whether in absence or in foro, shall exceed one sheet, for writing each succeeding sheet	0	0	6	0	0	6
Recording abridged decreets, per sheet	0	0	6	0	0	6
Indorsing decrees or warrants, and dating and recording such indorsation	0	1	0	0	1	0
Protestations for not insisting	0	0	6	0	0	9
Extract thereof	0	0	6	0	0	9
Acts and commissions, first sheet	0	0	6	0	0	9
Subsequent sheets, each	0	0	6	0	0	6
If the proof be taken on the interlocutor allowing it, without extracting an act and commission, there will be paid by each party leading proof	0	0	6	0	0	9
Diligence or precept for citing parties incidentally, witnesses or havers	0	0	6	0	0	9
Second diligence	0	0	6	0	0	9
Each deposition or declaration	0	0	6	0	0	9
Writing each sheet thereof, after the first, when the sheriff clerk acts as writing clerk	0	0	6	0	0	6
The sheriff clerk or his depute, when acting as commissioner in taking a proof, deposition of party, or declaration, will be allowed the following fees; viz.						
In causes not exceeding L.8, each hour	0	1	3			
Above L.8 and not exceeding L.25, each hour	0	2	0			
Above L.25, each hour	0	2	6			
As also his clerk's fee for writing, at the rate of 4d. per sheet.						
Sequestration of a tenant's effects, or of joint tenants in one possession; viz.						
Warrant of sequestration, and service	0	1	3	0	1	6
Taking the inventory, when taken by the clerk, if the rent to be secured be L.12 or under:						
Clerk and witnesses	0	2	6			
When the rent is above L.12 and does not exceed L.25:						
Clerk and witnesses	.	.	.	0	3	9
When the rent is L.25 and does not exceed L.50:						
Clerk and witnesses	.	.	.	0	5	0
When the rent is above L.50:						
Clerk and witnesses	.	.	.	0	6	3
Writing out inventory and schedule, per sheet of each in any of the above cases	.	.	.	0	0	6

	In Cases of L.12 and under.			Above L.12.		
	£	s.	d.	£	s.	d.
If the clerk and witnesses are necessarily employed more than two hours in taking the inventory, or travelling for that purpose, he will be allowed, in addition to the above fees, for every hour after the first two,						
Clerk and witnesses	0	0	9	0	0	9
But under these charges for the hours after the first two the clerk not to have in one day for himself and witnesses more than 5s.						
Warrant of sale	0	0	6	0	1	0
Extract thereof, per sheet, when required	0	0	6	0	1	0
Intimating sale to tax office	0	0	6	0	0	6
The clerk, when he executes any warrant to roup, and collects the proceeds, will be held liable for the amount of the roup roll, and will be allowed for his trouble and risk, including auctioneer's fees, as follows:						
When the amount of the roup roll is L.8 or under, he will be allowed 3s. 9d.						
When the amount of the roup roll is above L.8 and does not exceed L.100, he will be allowed at the rate of 2½ per cent.						
When the amount of the roup roll exceeds L.100 but does not exceed L.1000, he will be allowed 2½ per cent. for the first L.100, and for every additional L.100 or part of L.100 1½ per cent. And when the amount exceeds L.1000 he will be allowed the above rates for the first L.1000, and one per cent. for each additional L.100 and part of L.100.						
The above poundage to cover all charges for trouble in relation to the sale, and for collecting the proceeds, drawing advertisements and articles of roup; but the clerk will be allowed all his necessary disbursements or expences, such as advertising, paying crier, travelling charges, &c. He will also, when the proceeds are above L.20, be allowed 3s. 9d. for an assistant clerk.						
If roup be stopped after time of sale is fixed	0	1	3	0	1	3
Receiving the report of sale, and note of the sum arising from it, and marking the same	0	0	6	0	1	0
Allowing inspection of the same	0	0	6	0	0	6
In sales under other warrants of the sheriff, including poindings, the same fees to be paid as in sales under sequestrations.						
At intimating caption to compel return of a process including dues of caption, if issued	0	0	6	0	0	6
Enrolling a cause, to be paid by the party requiring enrolment	0	0	6	0	0	6
When any cause at avizandum is enrolled by order of the sheriff, the above fee to be paid by the parties equally.						
At borrowing a process, or part of a process, the clerk being for this fee bound to compare the process, both when borrowed and returned, and to mark the return	0	0	6	0	0	6
Attending at judicial inspections or visitations, when required by the sheriff or either of the parties, sealing up repositories, or executing any other order or warrant of the sheriff, not otherwise provided for in this table:						
First hour employed	0	2	0	0	2	6
Every other	0	1	3	0	2	0
Besides necessary outlays.						
Auditing accounts of expences when remit made to the clerk:						
In decrees in absence	0	0	6	0	0	6
In litigated cases, when the amount of the account rendered is under L.5	0	1	9	0	1	9
When L.5 and under L.10	0	2	6	0	2	6
When L.10 and under L.20	0	3	6	0	3	6
When L.20 and under L.40	0	5	0	0	5	0
When L.40 and under L.60	0	6	0	0	6	0
When L.60 and under L.80	0	7	6	0	7	6
When L.80 and upwards	0	10	6	0	10	6
Caveat	0	0	6	0	0	6
Precepts or warrants of arrestment, when contained in the summons	0	0	3	0	0	3
When not contained in the summons	0	0	9	0	1	0
At loosing an arrestment in either case	0	0	9	0	1	0
Each bond of caution and relative certificate	0	2	6	0	3	9
Edict or summons of curatory, or for giving up inventories	0	1	3	0	1	3
Calling in court, receiving and entering the nomination of curators	0	2	6	0	2	6
Doqueting and signing tutorial or curatorial inventories, per sheet of each duplicate	0	0	3	0	0	3

	In Cases of L.12 and under.			Above L.12.		
	£	s.	d.	£	s.	d.
Extract acts of curatory, or upon production of inventories:						
First sheet	0	2	6	0	2	6
Every other sheet	0	1	3	0	1	3
Second extracts, per sheet	0	1	3	0	1	3
Production of a bill of advocation, and marking the same, including trouble of transmitting the process when necessary		—		0	2	6
Transmitting extracted processes, in consequence of a warrant from the Court of Session or the sheriff	0	0	9	0	1	3
Appeal against a decree or sentence of the sheriff to the Court of Justiciary or circuit court, or answers thereto	0	1	0	0	1	3
Searching for a process in which no procedure has taken place for a year, if search does not exceed five years, and no extract ordered	0	0	6	0	1	0
Each additional year after the first five in which the search is made	0	0	3	0	0	3
For each consignation of money in the clerk's hands, if under L.10	0	1	3	0	1	3
And an additional fee for the amount above L.10, at the rate of 5s. on each L.100 consigned.						
On the lodging of a bank receipt when money ordered to be consigned is lodged in a bank instead of being consigned	0	1	3	0	1	3
The fees in these three last articles not to be chargeable on proceeds of roups or sales conducted by the clerks.						
Each warrant to uplift consigned money	0	1	3	0	1	3
Full extract, or second extract, or authenticated copy of a process or part of a process, or other procedure or paper, when required by a party and furnished by the clerk, per sheet	0	0	6	0	0	9

NOTE.—In all cases where the conclusions are ad factum præstandum, or not entirely pecuniary, the highest class to be the rate of charge; but fees on papers in summonses of removal or rejection to be charged according to the rent of the subject from which the defender is summoned to remove or to be ejected.

	£	s.	d.
Recording hornings, inhibitions, interdictions, lawburrows, with their executions, discharges, and other writings recorded in the registers of hornings, and inhibitions, per sheet	0	0	10
First or subsequent extracts thereof, when required, per sheet	0	0	9
Recording bonds, tacks, dispositions, and other writings in the register of deeds and probative writs, per sheet	0	0	9
First extracts of such deeds or writings, when required, per sheet	0	0	6
Subsequent extracts, per sheet	0	0	9
Recording protests on bills, including extract	0	1	3
Subsequent extracts	0	0	9
Recording accounts, states, and the like, per sheet of figures	0	1	0
Extract thereof, per sheet	0	0	9
Inspection of records of entailed vouchers	0	0	6
Searching the record of hornings or inhibitions, including minute book, each year or part of a year	0	0	3
In all not exceeding	0	3	9
Searching for deeds recorded for the first year, or part of the year specified	0	0	6
Every additional year	0	0	3
Certificate of search, if required	0	1	3
Inspection of records when a party or his agent makes the search, each record book and corresponding minute book	0	1	3
Examinations under the Bankrupt Act, when the sheriff clerk acts as clerk to the examination, each diet	0	3	9
Writing declarations or oaths therein, per sheet	0	0	

SERVICES.

General Service:			
Procuring the brieve executed, and intimation to agent	0	1	9
Attending in court at service, framing and recording the minutes, and instrument money	0	3	6
Fees of the service	0	10	0
Engrossing the retour	0	2	6
Special service, or service as heir of provision:			
Procuring the brieve executed, and intimation to agent	0	1	9

	£	s.	d.
Attending in court at service, framing the minutes, and recording, first sheet	0	3	0
Each other	0	1	0
Framing the retour, first sheet	0	7	6
Each other sheet	0	5	0
Engrossing the retour, each sheet	0	1	0
Extracts from the record of service, when required, each sheet	0	1	0
Infeftments:			
Drawing instrument of sasine on Chancery precepts, first sheet } 250 words per sheet	0	7	6
Each subsequent sheet } 250 words per sheet	0	5	0
Extending the same, first sheet } 250 words per sheet	0	1	6
Each subsequent sheet } 250 words per sheet	0	1	0
Besides the stamped vellum or parchment.			
And that the clerk receive for taking infeftment thereon, when the rent of the property			
does not exceed L.100 per annum	0	10	6
L.100 and not exceeding L.200	1	1	0
L.200 and not exceeding L.500	1	11	6
L.500 and not exceeding L.1000	2	2	0
And for every additional L.1000	0	10	6
But not to exceed in all	5	5	0
And if the distance exceed three miles, each additional mile, until it exceeds ten miles	0	2	6
But under this charge not to receive more per day than	1	1	0
Besides travelling charges.			
Extracts of minutes of procedure of freeholder meetings, when required, per sheet	0	1	3
Each person taking the oaths to government, when the oaths are not administered at a county meeting	0	1	0
Certificate thereof, when required	0	1	6
Qualifying a peer to vote at an election	1	1	0
Extract of the fiars, each year	0	0	9
Receiving each precept from the Court of Session, making up the list of jury, and instructing officer to summon, and making return	0	2	6
Receiving countermand of trial, and instructing officer	0	2	6
Writing and booking each necessary letter	0	1	3
Each duplicate and copy	0	0	6
Fees for public business payable in Exchequer:			
For the principal precept of intimation of election of a member of Parliament, besides expence of printing	0	10	6
Writings relative to elections of members of Parliament (exclusive of the precept), to summoning the commissioners of supply for laying on the land tax, and to other public business payable in the Exchequer, each sheet	0	1	0
When consisting of more than one sheet, each additional sheet	0	1	6
Superintending the execution of Chancery precepts, and returning the execution, for each precept	0	0	6
Superintending the publication of royal proclamations or writs, each	0	5	0
Warrant to summon jury and witnesses for striking the fiars and making list, and instructing officer to summon them	0	10	6
Attendance at striking the fiars, and writing the evidence and procedure, and recording the verdict	1	11	6
To the sheriff clerk for instructing the persons employed in taking up the list of jurors, receiving the returns, and engrossing the lists in the jury books, for each 100 names, exclusive of printing	0	5	0
To the district clerk, or other person having local knowledge, for attending and assisting the sheriff at revising lists, at the rate of 21s. per day, including travelling charges and postages.			

N.B.—The sheet of writings to be computed at three hundred words, when not otherwise specified; but if the writing does not contain three hundred words, to be charged as one sheet; and if after finding the sheet or sheets which any such writing shall comprise, calculated at the rate aforesaid, any number of words less than three hundred words shall remain, such fewer words shall be charged as a sheet. Although the fees for recording hornings, inhibitions, deeds and other writings in the registers of hornings and inhibitions, and of deeds and probative writs, are to be paid for at certain rates for every sheet, yet it is understood that the clerks are to frame those records so as to contain in each sheet the number of words prescribed by the regulations of the lord clerk register.

The fees in the above table to be paid, though the duty be performed by the clerk depute or by an assistant clerk, and to be exclusive of postages and outlays.

The fees in criminal and any other business to be subject to the regulation of the Treasury.

2 & 3 VICTORIA, 1839.

CHAPTER XXXVI.

THE COURT OF SESSION ACT, 1839 (*Short Titles Act*, 1896).

AN ACT to regulate the duties to be performed by the Judges in the Supreme Courts of Scotland, ... [29th July 1839.]

Title in part rep. 53 & 54 *Vict. c.* 51 (*S.L.R.*).

[*Preamble recites* 11 *Geo.* 4 *&* 1 *Will.* 4, *c.* 69; 2 *&* 3 *Will.* 4, *c.* 54; 50 *Geo.* 3, *c.* 31.]

1. JUDGES OF COURT OF SESSION SHALL PERFORM THE DUTIES OF COURT OF EXCHEQUER.—Judges of the Court of Session in Scotland shall be bound, in addition to the duties at present discharged by them, to perform the duties of . . . barons of the Court of Exchequer; . . . . . .

S. 1 *in part rep.* 53 & 54 *Vict. c.* 51 (*S.L.R.*).

[*S.* **2** *rep.* 53 *&* 54 *Vict. c.* 51 (*S.L.R.*).]

3. CLERKS OF COURT OF JUSTICIARY TO BE APPOINTED BY THE CROWN AND PERFORM DUTIES IN PERSON.—The appointment to the offices of principal and depute clerks of the Court of Justiciary, . . . shall, as vacancies occur, be vested in her Majesty and all persons to be hereafter appointed to any of the said offices shall perform the duties thereof in person.

S. 3 *in part rep.* 53 & 54 *Vict. c.* 51 (*S.L.R.*).

[*Ss.* **4, 5** *rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*). *S.* **6** *rep.* 53 *&* 54 *Vict. c.* 51 (*S.L.R.*). *S.* **7** *rep.* 55 *&* 56 *Vict. c.* 19 (*S.L.R.*).]

8. COURT OF COMMISSIONERS FOR TEINDS TO CONSIST OF CERTAIN JUDGES.—The judges of the two divisions of the inner house of the Court of Session, along with the lord ordinary who shall be judge in teind causes and proceedings for the time being, shall be lords commissioners for teinds, and shall constitute the court of commissioners for teinds, and any five of the said judges shall be a quorum of the said court; and it shall be competent to the said court, in causes which they may deem to be of importance or difficulty, to order that such causes shall be heard before the whole judges of the Court of Session, and to obtain their opinions in like manner as is provided in ordinary causes depending in either division of the Court of Session.

9. ASSISTANCE OF LORDS ORDINARY IN JURY COURT.— . . . At the sittings of the Court of Session for trial of civil causes by jury, before and after the ordinary sessions of the said court, the lords ordinary shall assist, when required, ...

S. 9 *in part rep.* 37 & 38 *Vict. c.* 96 (*S.L.R.*), *and* 55 & 56 *Vict. c.* 19 (*S.L.R.*).

10. COURT OF SESSION MAY EXTEND THEIR SITTINGS, &C.—It shall be lawful for the said Court of Session, and they are hereby authorized and empowered, if there shall be arrears of business in the said court, or as the state of business otherwise may require, from time to time to direct, by act or acts of sederunt, that the winter and summer sessions of the Court of Session or either of them shall be extended, and to specify the time or times of such extension, and the precise duration thereof, and to direct that such extension shall apply either to the whole Court of Session or to either of the divisions thereof, or to all or any of the lords ordinary, and to make all regulations which may be required in consequence of any such extension, or connected therewith: Provided always, that such extension shall not on the whole exceed the usual period of the sittings of the said court previous to the passing of this Act by more than the space of two calendar months in the course of the year; and that it shall thereafter in like manner be lawful for the said court to alter and limit the said period of extension from time to time as occasion may require; and provided also, that sederunt days shall be reckoned from and regulated by the meeting of the inner houses of the court, and not by the sittings of the lords ordinary.

11. HER MAJESTY MAY EXTEND THE SITTINGS.—[*Recital of* 11 *Geo.* 4 *&* 1 *Will.* 4, *c.* 69,

s. 10] It shall be lawful for her Majesty, with the consent of her privy council, from time to time to order and direct the extension of the duration of the sittings of the said court, or either of the divisions thereof, or of all or any of the lords ordinary, and to alter and limit such extension to such and the like duration and in such and the like manner as the judges of the said court are herein-before authorized to alter the sittings thereof.

[*S.* **12** *rep.* 53 *&* 54 *Vict. c.* 51 (*S.L.R.*).]

13. Court of Session to make Regulations for carrying this Act into effect, &c.—The Court of Session shall be and is hereby empowered from time to time to make such regulations, by act or acts of sederunt, as the said court may deem meet, for carrying into effect the purposes of this Act, as also to make regulations for allowing summonses to be called at either of the box days in the autumn vacation, and making defences returnable at the second box day, or on the meeting of the court in November; and the said court may meet for the above purposes during vacation as well as during session, and may alter and amend such regulations from time to time: Provided always, that within fourteen days from the commencement of every future session of Parliament there shall be transmitted to both Houses of Parliament copies of all acts of sederunt made and passed under the powers herein given.

[*Ss.* **14, 16** *rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*). *S.* **15** *rep.* 51 *&* 52 *Vict. c.* 57 (*S.L.R.*).]

CHAPTER XLV.

The Highway (Railway Crossings) Act, 1839 (*Short Titles Act*, 1896).

An Act to amend an Act of the Fifth and Sixth Years of the Reign of His late Majesty King William the Fourth relating to Highways.

[17th August 1839.]

[*Preamble recites* 5 *&* 6 *Will.* 4, *c.* 50, *ss.* 71, 113.]

1. Where any Railroad crosses a Highway, &c., Proprietors of Railroad shall maintain Gates—Penalty for each day's neglect, L.5.—Wherever a railroad crosses or shall hereafter cross any turnpike road or any highway or statute labour road for carts or carriages in Great Britain, the proprietors or directors of the company of proprietors of the said railroad shall make and maintain good and sufficient gates across each end of such turnpike or other road as aforesaid at each of the said crossings, and shall employ good and proper persons to open and shut such gates, so that the persons, carts, or carriages passing along such turnpike or highway shall not be exposed to any danger or damage by the passing of any carriages or engines along the said railroad; and any complaint for any neglect in respect of the said gates shall be made within one calendar month after the said neglect to any justice of the peace, or if in Scotland to the sheriff of the county, who may summon the party so complained against to appear before them or him at the next petty session or court to be holden for the district or division within which such gates are situate, who shall hear and decide upon the said complaint; and the proprietor or director so offending shall for each and every day of such neglect forfeit any sum not exceeding five pounds, together with such costs as to the justices or sheriff depute aforesaid before whom the conviction shall take place shall seem fit.

2. Recovery and application of Penalty, &c.—The penalties by this Act imposed, and the costs to be allowed and ordered by the authority of this Act, shall in England be recovered and applied in the same manner as any penalties and costs under the said Act, and in Scotland shall be recovered and applied to the maintenance of the statute labour roads within the district where the offence is committed.

[*S.* **3** *rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*).]

CHAPTER LI.

THE PENSIONS ACT, 1839 (*Short Titles Act*, 1896).

AN ACT to regulate the Payment and Assignment in certain Cases of Pensions granted for Service in Her Majesty's Army, Navy, Royal Marines, and Ordnance.[1] [17th August 1839.]

[1] *So much of this Act as relates to the repayment of relief administered to Chelsea or Greenwich out-pensioners, rep.* 9 & 10 *Vict. c.* 10, *s.* 2.

[*Preamble recites* 59 *Geo.* 3, *c.* 12; 6 *Geo.* 4, *c.* 27.]

[*S.* **1** *rep.* 37 & 38 *Vict. c.* 96 (*S.L.R.*).]

2. WHERE RELIEF IS GIVEN TO PENSIONERS, &C. BY ADMISSION INTO WORKHOUSE, GUARDIANS MAY REQUIRE PAYMENT OF PENSIONS TO BE MADE TO THEM, &C.—When relief shall be given to any person entitled to or in receipt of any army or naval pension, or any superannuation or other allowance in respect of his service in the army, navy, marines, or ordnance, or any other branch of the military service, or in any civil branch of the army, navy, marines, or ordnance, or to his wife, or to any person whom he may be liable to maintain, by admission of such pensioner, his wife, or person, into the workhouse of any union or parish, it shall be lawful for the guardians of such union, by minute, in the form in the schedule to this Act annexed marked (A.) with respect to any pension payable at Chelsea Hospital or payable out of any funds intrusted to the commissioners of Chelsea Hospital for the payment of pensions, and in the form in the schedule to this Act marked (B.) with respect to any Greenwich out-pensions, and in the form in the schedule to this Act marked (C.) with respect to any other of the before-mentioned pensions, superannuation, or allowance, to require that the next payment which shall become due of such pension or allowance, shall be made to such guardians, who shall transmit a copy of such minute, attested by their clerk, at least one month before such payment shall become due, and addressed as to pensions or allowances payable at Chelsea Hospital or by the commissioners of the said hospital to the secretary of Chelsea Hospital, with the words "Chelsea pension" written thereon, and as to Greenwich out-pensions to the paymaster general, Out-pension Office, Tower Hill, with the words "Greenwich out-pension" written thereon, and as to all other the before-mentioned pensions to the paymaster general, Whitehall, London; and the commissioners of Chelsea Hospital and Her Majesty's paymaster general respectively shall thereupon, and upon the like proof being given as is herein-after directed with respect to assignments, cause payment to be made to such guardians; and the said guardians shall thereupon enter upon their minutes the nature and amount of relief actually given to such pensioner or his wife or other person, and upon application made by the said pensioner to the clerk of the said guardians shall inform the said pensioner of the amount thereof; and the said guardians so receiving any pension or allowance shall retain and apply so much thereof as will repay the cost of relief actually given as aforesaid, for the use and indemnity of the union or parish, and shall pay the surplus (if any) to the pensioner or person entitled thereto; and upon the receipt of any such minute as aforesaid the payment of the pension or other allowance mentioned therein shall be suspended until sufficient proof shall have been given to entitle the guardians named in such minute to receive the money thereby required to be paid to them; provided that where such relief shall not be given to the pensioner himself, the said guardians, before transmitting any such minute as aforesaid, shall obtain satisfactory proof that the person to whom such relief shall be given is the lawful wife of the said pensioner, or a person whom such pensioner is by law liable to maintain, which proof shall also be entered upon the minutes of the said board of guardians.

3. PENSIONERS APPLYING TO GUARDIANS, &C. FOR TEMPORARY RELIEF, MAY ASSIGN PAYMENTS OF PENSION TO THEM, &C.—When any pensioner or person entitled to or in receipt of any pension or other allowance as aforesaid, shall apply for temporary relief to the guardians of any union or parish in England or Ireland, or to the churchwardens or overseers of any parish in which the administration of the relief of the poor has not been directed to be governed by a board of guardians, or not situate within any union, so long only as such parish is not governed by such guardians nor situate within any

union, or to the heritors and kirk session in Scotland, or shall receive relief from the said guardians, churchwardens, and overseers, or heritors and kirk session, it shall be lawful for the said guardians or churchwardens and overseers of the poor, and heritors and kirk session, but not compulsory upon them, to grant such relief in such case, or in the event of any pensioner receiving relief without previous application on his part, and to require the pensioner applying for or receiving the same to assign to them respectively his next quarterly payment of pension or other allowance, to the intent that such guardians or churchwardens and overseers, or heritors and kirk session respectively may receive the same, and retain for the use of the said union or parish so much thereof as shall have been by them respectively advanced for the temporary relief of such pensioner, or of his wife or family residing with him in such union or parish; and every assignment to be made of any such pension or other allowance for the purposes and according to the tenor of this Act shall be exempt from stamp duty, and shall, as to any pensions payable at Chelsea Hospital or by the commissioners thereof, be in the form set out in the schedule to this Act marked (D.), and as to Greenwich out-pensions in the form set out in the schedule to this Act marked (E.), and as to all other the before-mentioned pensions and allowances payable by her Majesty's paymaster general in the form set out in the schedule to this Act marked (EE.); and every assignment shall be certified by the chairman and clerk of the said union at some meeting of the board of guardians, or by a churchwarden or overseer of such parish, or one of the heritors, and shall be attested by one of her Majesty's justices of the peace; and every such assignment shall be transmitted, within seven days after the same shall have been executed, and at least one month before the payment thereon shall become due, under cover, addressed, as to pensions payable at Chelsea Hospital or by the commissioners of the said hospital, to the secretary of Chelsea Hospital, with the words "Chelsea pensioner" written thereon, and with respect to naval pensions to the paymaster general, Out-pension Office, Tower Hill, with the words "Greenwich out-pension" written thereon, and as to all other the before-mentioned pensions, to the paymaster general, Whitehall, London; who shall thereupon respectively cause the payment thereof to be made to the said guardians of the union or parish, or to the churchwardens and overseers of the poor of the parish, or to the overseers of the poor alone where there are no churchwardens, or heritors and kirk session, for whose security the assignment shall have been made, in the same manner as the said payment would have been made to the person assigning the same, if no such assignment had been made; and such guardians, or churchwardens and overseers, or heritors and kirk session, are hereby authorized to receive the same, and to retain thereout, for the use of the said union or parish, so much as shall have been advanced and paid on security thereof; and the said guardians, churchwardens, and overseers, or heritors and kirk session respectively, shall keep an account in writing of the sum or sums so advanced, and also, immediately upon the receipt of the said pension, shall pay the residue thereof (if any) to the pensioner by whom such assignment shall have been made; and if any question shall arise between the pensioner making any such assignment and the guardians, or churchwardens and overseers of the poor, or heritors and kirk session, receiving the same, touching the amount which shall be due and payable to them respectively by virtue of any such assignment, the same shall be determined in a summary way by one of her Majesty's justices of the peace, and his order and determination therein shall be final and conclusive: Provided always, that no such assignment shall entitle the said guardians, or churchwardens and overseers, or heritors and kirk session, to whom the same shall be made, to receive the pension or allowance purporting to be thereby assigned, if the same shall not have been transmitted within seven days after the same shall have been executed, if the party assigning the same shall die before the time when such pension would have become payable to him, as if no such assignment thereof had been made: Provided also, that all assignments not made in conformity with the provisions of this Act shall be null and void.

4. Where Pensioners leave Wife, &c. to become chargeable to the Union, &c., Justices may direct payment of Pensions to be made to Guardians, &c.—When any pensioner or other person entitled to or in receipt of any army, naval, or other pension or allowance as aforesaid, shall leave his wife or family in any union or parish, or shall suffer them to become chargeable to any union or parish, it shall be lawful for two or more of her Majesty's justices of the peace for the county or place in which such union or parish is situate, upon complaint thereof made on oath to them by any one or more

of the guardians of any such union or parish, or any one of the churchwardens and overseers of the poor of such parish where no union or board of guardians is established, or by the relieving officer of such union or parish, or the heritors and kirk session in Scotland, and upon due and satisfactory proof being given to the said magistrates that the person so left is the lawful wife of the said pensioner, or the lawful child (as the case may be), by order under their hands and seals, as to army pensions payable at Chelsea Hospital or by the commissioners thereof in the form set out in the schedule to this Act marked (F.), and as to Greenwich out-pensions in the form set out in the schedule to this Act marked (G.), and as to all other the before-mentioned pensions and allowances payable by her Majesty's paymaster general in the form set out in the schedule to this Act marked (H.), to direct that one half of the next payment which shall become due of such pension or other allowance, in case it shall be the wife or one child only who shall have been so left or suffered to become chargeable, or two thirds thereof in case a wife and child, whether his own or a step-child, or two or more children, shall have been left or suffered to become chargeable, shall be made to the guardians of such union or parish, or to the churchwardens and overseers of the poor of the parish, or heritors and kirk session, to which such wife or family shall have become chargeable; and such guardians or churchwardens and overseers of the poor, or heritors and kirk session, shall transmit or cause to be transmitted such order as to such army pensions as aforesaid to the commissioners for the affairs of the royal hospital at Chelsea, and with respect to such naval and other pensions as aforesaid to the paymaster general, Whitehall, London, in like manner and within the like period as any assignment is herein-before directed to be transmitted; which said commissioners of Chelsea Hospital and her Majesty's paymaster general respectively shall thereupon, and upon sufficient proof being given to their satisfaction respectively that the person whose pension shall be directed to be paid shall have been living when the same has become payable, and would have been entitled to receive the same if no such order had been made, cause the said payment of one moiety or two thirds, as the case may be, to be made to the said guardians of the union, or churchwardens and overseers of the poor of the parish, or heritors and kirk session, for whose security such order shall have been made; and the guardians or churchwardens and overseers of the poor, or heritors and kirk session, receiving any such pension by virtue of any such order, shall retain and apply the same, or so much thereof as shall have been actually expended for the purposes aforesaid, for the use and indemnity of the said union or parish, and shall pay the overplus (if any there shall be) to the pensioner or person entitled thereto; and upon the receipt of any such order as aforesaid by which the pension to be mentioned therein shall be directed to be paid as aforesaid, the payment thereof shall be suspended until sufficient proof, by the personal appearance of the pensioner before the collector of excise, or in such other manner as shall be directed by the lords and others commissioners of Chelsea Hospital, or paymaster general, shall have been given, to entitle the said guardians or churchwardens and overseers of the poor of the parish in such order named, or heritors and kirk session, to receive the money thereby directed to be paid to them; and upon the like proof, the other moiety or one third, as the case may be, of the quarterly payment of the said pension shall be paid by the commissioners of Chelsea Hospital and her Majesty's paymaster general respectively to the pensioner entitled thereto, upon his own receipt: Provided that in all cases where it shall be made to appear to the said justices that the woman relieved or to be relieved as the wife of the said pensioner shall be notoriously profligate, or cohabiting with any other person than her said husband, it shall be lawful for the said justices, and they are hereby required, to refuse making any order with respect to the payment of the said pension.

[*S.* **5** *rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*).]

6. 11 Geo. 4 & 1 Will. 4, c. 20, s. 70—When persons receiving Pensions for services in Civil Departments of the Navy become lunatic, the Pensions shall be paid to their Wives, &c. for their support.—And whereas by an Act passed in the eleventh year of the reign of his late Majesty King George the Fourth, to amend and consolidate the laws relating to the pay of the royal navy, power is vested in the commissioners for executing the office of lord high admiral to direct pensions payable to the officers and seamen of the royal navy, and to the officers of marines and to marines, who shall become lunatic, or so much of such pensions as the said commissioners shall think

fit, to be disposed of in the maintenance of such lunatic persons; and it is expedient that such power should be extended to the pensions, superannuations, and other allowances made to persons for services in the civil departments of the navy: Be it therefore enacted and declared, that in all cases when any such persons as last mentioned are or shall become lunatic, such pensions, superannuations, or other allowances, or so much thereof as the said commissioners for executing the office of lord high admiral shall deem expedient, shall and may be paid by the paymaster general to the wife, relative, or other person having the care and maintenance of the lunatic, to be applied towards his support; and the receipt of the wife, relative, or other person as aforesaid to whom the same shall be so paid, shall be a sufficient discharge to the said paymaster general for the same.

7. In case of more than one Assignment or Order, &c. the Quarter's Pension shall be paid according to priority of dates. -If it shall happen that the minute of any board of guardians, and any assignment by the person entitled, and any order of justices relating to the same pension, or any two of such instruments, shall, as to such army pensions be received at Chelsea Hospital, and as to such Greenwich out-pensions be received at the pension office, Tower Hill, London, or as to any other of such pensions or other allowance as aforesaid be received at the office of the paymaster general at Whitehall, in any one quarter, the commissioners of Chelsea Hospital or her Majesty's paymaster general respectively shall pay the quarter's pension upon such one of the said respective instruments as shall have been first executed according to the date thereof, and duly transmitted, so as to enable the commissioners and her Majesty's paymaster general respectively, according to their usual course of forwarding the receipts for quarterly pensions, to confer such priority; and in the event of any such instruments being dated and received the same day, then a proportionate part of the pension to which such instruments relate shall be paid upon every or each of the said instruments.

8. 59 Geo. 3, c. 12—Punishment of persons assigning or assisting to assign Pensions otherwise than to Guardians, &c.—And whereas great frauds have been practised, and exorbitant and usurious interest obtained from pensioners, upon assignments made under colour of the said Act of the fifty-ninth year of the reign of his said late Majesty King George the Third, and according to the form set out in the said Act, although the money advanced thereon has not been advanced out of parish funds, nor to reimburse a parish for relief given to the prisoner by the churchwardens and overseers: Be it therefore enacted, that if any person entitled to pension or other allowance shall assign or aid or assist in making an assignment thereof, or of any quarterly or other payment thereof, to any person or persons whatsoever, except to the guardians of any union or parish, or to the churchwardens and overseers of the poor of the parish wherein such pensioner resides, or to the heritors and kirk session of any place in Scotland where such pensioner resides, and except for relief granted out of the funds of such union, parish, or townland to such pensioner, or his wife or family residing with him in such parish, it shall be lawful for the lords and others commissioners of Chelsea Hospital, so far as relates to army or other pensions payable by such commissioners, and for the lord high admiral, or commissioners for executing the office of lord high admiral, with respect to naval and marine pensions or other allowance, immediately to take away the pension from the person so offending, or to suspend for any definite period the future payments thereof; and if any person or persons shall procure or induce a pensioner to make or aid or assist him in making any assignment of pension, superannuation, or other allowance as aforesaid, to any person or persons other than the guardians of any union or parish as aforesaid, or the churchwardens and overseers of the parish wherein such pensioner resides, or any heritors and kirk session in Scotland as aforesaid, or shall make or aid or assist in making any assignment which shall not be given by the said pensioner or person entitled to other allowance as aforesaid, and received by the said guardians, parish officer, or heritors and kirk session as a security for relief given or money granted or advanced out of the funds of such union, parish, townland, or place, and for reimbursing the guardians, churchwardens and overseers, or heritors and kirk session advancing the same, or shall receive or accept as payment or security for money or for goods advanced or agreed to be advanced to or lent or given to any such pensioner or person entitled as aforesaid, or shall demand or charge any interest or pecuniary or other compensation for advancing money upon any pension or other allowance so assigned or taken, or pretended to be assigned or taken, such person or persons

shall for every such offence be deemed guilty of a misdemeanor, and shall upon every conviction thereof be punished by such fine or imprisonment, or both, as the court before which such person or persons shall be convicted shall adjudge.

9. Persons forging Documents, &c. guilty of Felony, &c.—If any person shall forge or counterfeit or alter, or cause or procure to be forged, counterfeited, or altered, or knowingly and willingly act, aid, or assist in forging, counterfeiting, or altering, any minute, copy of minute, assignment of pension, superannuation, or other allowance as aforesaid, order, certificate, receipt, document, or authority whatsoever relating to or in anywise concerning the claiming or obtaining payment of any pension money or other allowance as aforesaid, or shall utter or publish as true, or knowingly and willingly act, aid, or assist in uttering or publishing as true, knowing the same to be forged, counterfeited, or altered, any such minute, copy, assignment, order, certificate, receipt, document, or authority relating to or anywise concerning the claiming or obtaining payment of any pension money or other allowance as aforesaid, or the name of any pensioner, justice of the peace, guardian, parish officer, or other officer, or any other person authorized, or supposed or purporting to be authorized, to sign any such minute, copy, assignment, order, certificate, receipt, document, or authority, with intent or in order to obtain, or to enable any other person to obtain, the payment of any such pension or pension money or other allowance as aforesaid from the commissioners of Chelsea Hospital or her Majesty's paymaster general respectively, or from any officer, under officer, clerk, or servant of the said commissioners of Chelsea Hospital or of her Majesty's paymaster general respectively, or from any person authorized or supposed to be authorized to pay any pension or pension money or other allowance, as aforesaid, every such person so offending shall be guilty of felony . . . . . .

S. 9 in part rep. 55 & 56 Vict. c. 19 (S.L.R.).

10. Definition of "Parish."—The term "parish" shall extend, wherever the context shall so require, to all places separately maintaining their own poor.

SCHEDULES to which the foregoing Act refers.

Schedule (A.).

Form of Minute of Board of Guardians.

The guardians of the union or parish of in the county of do hereby certify to the lords and other commissioners of the royal hospital for soldiers at Chelsea in the county of Middlesex, that , an out-pensioner from the regiment of at per diem, was on the day of received into the workhouse at [or that the wife or other relation whom the said is bound to maintain, as the case may be], by order of the said guardians; and the said guardians do thereupon, in pursuance of an Act passed in the year of her Majesty Queen Victoria intituled [the title of this Act], require that the next quarter's pension of the said shall be paid to the said guardians, to be applied pursuant to the provisions of the said Act of Parliament.

Dated

Certified on the day of at a meeting of the board of the said guardians by

A.B., chairman.
C.D., clerk.

To the lords and others
commissioners of Chelsea Hospital.

Schedule (B.).

Form of Minute of Board of Guardians.

The guardians of the union or parish of in the county of do hereby certify to her Majesty's paymaster general, that , a Greenwich out-pensioner, No. , at per annum, was on the day of

received into the workhouse at [or that the wife or other relation whom the said is bound to maintain, as the case may be], by order of the said guardians; and the said guardians do thereupon, in pursuance of an Act passed in the year of her Majesty Queen Victoria, intituled [the title of this Act,] require that the next quarter's pension of the said shall be paid to the said guardians to be applied pursuant to the provisions of the said Act of Parliament.

Dated

Certified on the day of at a meeting of the board of the said guardians by

A.B., chairman.
C.D., clerk.

To her Majesty's paymaster general,
Greenwich Out-pension Office, Tower Hill.

SCHEDULE (C.)

FORM of Minute of Board of Guardians.

The guardians of the union or parish of in the county of do hereby certify to her Majesty's paymaster general, that , a person entitled to [here state whether for pension or allowances in civil or military service, not as Chelsea or Greenwich out-pensioner] at per annum, was on the day of received into the workhouse at [or that the wife or other relation whom the said is bound to maintain, as the case may be], by order of the said guardians; and the said guardians do thereupon, in pursuance of an Act passed in the year of her Majesty Queen Victoria, intituled [the title of this Act], require that the next quarter's pension of the said shall be paid to the said guardians, to be applied pursuant to the provisions of the said Act of Parliament.

Dated

Certified on the day of at a meeting of the board of the said guardians by

A.B., chairman.
C.D., clerk.

To her Majesty's paymaster general,
Whitehall, London.

SCHEDULE (D.)

I [naming the pensioner, and the regiment from which he was discharged] do hereby assign to the guardians of the union or parish of [or, as the case may be, the churchwardens and overseers of the poor of the parish of or to the heritors and kirk session of], in which union [or parish] I am now residing, the next payment of my pension at the rate of per diem, granted to me as and payable from in order to secure to the said union [or parish] of the repayment of the sum of advanced to me by such guardians [or churchwardens and overseers, or heritors and kirk session, as the case may be,] out of the funds of the said union [or parish].

, pensioner.

Signed by the above-named before me, one of her Majesty's justices of the peace for , this day of .

, justice.

We do hereby certify the above assignment to be made pursuant to Act Victoria, cap. , intituled [stating the title of this Act], and to be for relief given out of the funds of the said union [or parish] on the day of at a meeting of the board of the said guardians.

A.A., chairman,
A.B., clerk.
Or C.D., the churchwarden, and
D.E., the overseer of
Or E.F., one of the heritors, and
F.G., an elder of

SCHEDULE (E.).

I [naming the pensioner] do hereby assign to the guardians of the union or parish of [or, as the case may be, the churchwardens and overseers of the poor of the parish of , or to the heritors and kirk session of], in which union [or parish] I am now residing, the next payment of my Greenwich out-pension at the rate of per annum, granted to me as and payable from , in order to secure to the said union [or parish] of the repayment of the sum of advanced to me by such guardians [or churchwardens, or overseers, or heritors and kirk session, as the case may be,] out of the funds of the said union [or parish].

, pensioner.

Signed by the above-named before me, one of her Majesty's justices of the peace for , this day of .

, justice.

We do hereby certify the above assignment to be made pursuant to Act Victoria, cap. , intituled [stating the title of this Act], and to be for relief given out of the funds of the said union [or parish] on the day of at a meeting of the board of the said guardians.

A.A., chairman.
A.B., clerk.
Or C.D., the churchwarden, and
D.E., the overseer of
Or E.F., one of the heritors, and
F.G., an elder of

SCHEDULE (EE.).

I [naming the person] do hereby assign to the guardians of the union [or parish] of [or, as the case may be, the churchwardens and overseers of the poor of the parish of , or to the heritors and kirk session of], in which union [or parish] I am now residing, the next payment of my [here state whether for pension or allowances in civil or military services, not as Chelsea or Greenwich out-pensioner] at per annum, and payable from , in order to secure to the said union [or parish] of the repayment of the sum of advanced to me by such guardians [or churchwardens or overseers or heritors and kirk session, as the case may be,] out of the funds of the said union [or parish].

, pensioner.

Signed by the above-named before me, one of her Majesty's justices of the peace for , this day of .

, justice.

We do hereby certify the above assignment to be made pursuant to Act Victoria, cap. , intituled [stating the title of this Act], and to be for relief given out of the funds of the said union [or parish] on the day of at a meeting of the board of the said guardians.

A.A., chairman.
A.B., clerk.
Or C.D., the churchwarden, and
D.E., the overseer of
Or E.F., one of the heritors, and
F.G., an elder of

SCHEDULE (F.)

FORM of Order to be made in pursuance of Victoria, cap. .

County of } To the right honourable the lords and others commissioners of the royal } hospital, Chelsea.

Whereas complaint upon oath hath been made unto us, two of her Majesty's justices of the peace acting in and for the said county, by the of the union [or

parish] of in the county aforesaid, that , late a soldier in the regiment of , but now a pensioner of the royal hospital at Chelsea from the said regiment at the rate of per diem, hath suffered his to become chargeable thereto, and that now maintained by the said union [or parish] at the expence of per week, and due proof having been given to us of the said being the lawful wife [or lawful children] of the said [or that the said is liable to maintain the said , as the case may be]:

Now we do hereby, in pursuance of the statute in that case made and provided, order and direct, that [one moiety, or two thirds, as the case may be,] of the next payment which shall become due of such pension shall be paid by the said commissioners to the guardians [or churchwardens and overseers, or heritors and kirk session, as the case may be,] of the said union [or parish] of , in order that they may retain and apply the same, or so much thereof as shall have been actually expended as aforesaid, for the use and indemnity of the said union [or parish], paying the overplus (if any) to the pensioner or person entitled thereto.

Given under our hands and seals this day of in the year of our Lord one thousand eight hundred and at in the county aforesaid.

SCHEDULE (G.).

FORM of Order to be made in pursuance of Victoria, cap. .

County of } To her Majesty's paymaster general.

Whereas complaint upon oath hath been made unto us, two of her Majesty's justices of the peace acting in and for the said county, by the of the union [or parish] of in the county aforesaid, that a Greenwich out-pensioner, No. , at the rate of per annum, hath suffered his to become chargeable thereto, and that now maintained by the said union [or parish] at the expence of per week, and due proof having been given to us of the said being the lawful wife [or lawful children] of the said [or that the said is liable to maintain the said as the case may be].

Now we do hereby, in pursuance of the statute in that case made and provided, order and direct, that [one moiety, or two thirds, as the case may be,] of the next payment which shall become due of such pension shall be paid by her Majesty's paymaster general to the guardians [or churchwardens and overseers, or heritors and kirk session, as the case may be,] of the said union [or parish] of , in order that they may retain and apply the same, or so much thereof as shall have been actually expended as aforesaid, for the use and indemnity of the said union [or parish], paying the overplus (if any) to the pensioner or person entitled thereto.

Given under our hands and seals this day of in the year of our Lord one thousand eight hundred and at in the said county of .

SCHEDULE (H.).

FORM of Order to be made in pursuance of Victoria, cap. .

County of } To her Majesty's paymaster general.

Whereas complaint upon oath hath been made unto us, two of her Majesty's justices of the peace acting in and for the said county, by of the union [or parish] of in the county aforesaid, that , a person entitled to [here state whether for pension or allowances in civil or military service, not as Chelsea or Greenwich out-pensioner] at the rate of per annum, hath suffered his to become chargeable thereto, and that the said is [or are] now maintained by the said union [or parish] at the expence of per week,

and due proof having been given to us of the said being the lawful wife or lawful children of the said , or that the said is liable to maintain the said (as the case may be):

Now we do hereby, in pursuance of the statute in that case made and provided, order and direct, that [one moiety, or two thirds, as the case may be,] of the next payment which shall become due of such pension shall be paid by her Majesty's paymaster general to the guardians [or churchwardens and overseers, or heritors and kirk session, as the case may be], of the said union [or parish] of , in order that they may retain and apply the same, or so much thereof as shall have been actually expended as aforesaid, for the use and indemnity of the said union [or parish], paying the overplus (if any) to the pensioner or persons entitled thereto.

Given under our hands and seals this day of in the year of our Lord one thousand eight hundred and at in the said county of .

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3 & 4 VICTORIA, 1840.

CHAPTER IX.

THE PARLIAMENTARY PAPERS ACT, 1840 (*Short Titles Act*, 1896).

AN ACT to give summary Protection to Persons employed in the Publication of Parliamentary Papers. [14th April 1840.]

[*Preamble.*]

1. PROCEEDINGS, CRIMINAL OR CIVIL, AGAINST PERSONS FOR PUBLICATION OF PAPERS PRINTED BY ORDER OF PARLIAMENT, TO BE STAYED UPON DELIVERY OF A CERTIFICATE AND AFFIDAVIT TO THE EFFECT THAT SUCH PUBLICATION IS BY ORDER OF EITHER HOUSE OF PARLIAMENT.—It shall and may be lawful for any person or persons who now is or are, or hereafter shall be, a defendant or defendants in any civil or criminal proceeding commenced or prosecuted in any manner soever, for or on account or in respect of the publication of any such report, paper, votes, or proceedings by such person or persons, or by his, her, or their servant or servants, by or under the authority of either House of Parliament, to bring before the court in which such proceeding shall have been or shall be so commenced or prosecuted, or before any judge of the same (if one of the superior courts at Westminster), first giving twenty-four hours notice of his intention so to do to the prosecutor or plaintiff in such proceeding, a certificate under the hand of the lord high chancellor of Great Britain, or the lord keeper of the great seal, or of the speaker of the House of Lords, for the time being, or of the clerk of the Parliaments, or of the speaker of the House of Commons, or of the clerk of the same house, stating that the report, paper, votes, or proceedings, as the case may be, in respect whereof such civil or criminal proceeding shall have been commenced or prosecuted, was published by such person or persons, or by his, her, or their servant or servants, by order or under the authority of the House of Lords or of the House of Commons, as the case may be, together with an affidavit verifying such certificate; and such court or judge shall thereupon immediately stay such civil or criminal proceeding; and the same, and every writ or process issued therein, shall be and shall be deemed and taken to be finally put an end to, determined, and superseded by virtue of this Act.

2. PROCEEDINGS TO BE STAYED WHEN COMMENCED IN RESPECT OF A COPY OF AN AUTHENTICATED REPORT, &C.—In case of any civil or criminal proceeding hereafter to be commenced or prosecuted for or on account or in respect of the publication of any copy of such report, paper, votes, or proceedings, it shall be lawful for the defendant or defendants at any stage of the proceedings to lay before the court or judge such report, paper, votes, or proceedings, and such copy, with an affidavit verifying such report, paper, votes, or proceedings, and the correctness of such copy, and the court or judge shall immediately stay such civil or criminal proceeding; and the same, and every writ

or process issued therein, shall be and shall be deemed and taken to be finally put an end to, determined, and superseded by virtue of this Act.

3. In proceedings for printing any Extract or Abstract of a Paper, it may be shewn that such Extract was bonâ fide made.—It shall be lawful in any civil or criminal proceeding to be commenced or prosecuted for printing any extract from or abstract of such report, paper, votes, or proceedings, to give in evidence under the general issue such report, paper, votes, or proceedings, and to show that such extract or abstract was published bonâ fide and without malice; and if such shall be the opinion of the jury, a verdict of not guilty shall be entered for the defendant or defendants.

4. Act not to affect the Privileges of Parliament.—Provided always, that nothing herein contained shall be deemed or taken, or held or construed, directly or indirectly, by implication or otherwise, to affect the privileges of Parliament in any manner whatsoever.

CHAPTER XVII.

The Excise Act, 1840 (*Short Titles Act*, 1896).

An Act for granting to Her Majesty Duties of Customs, Excise, and Assessed Taxes. [19th June 1840.]

[*Whole Act rep.* 37 & 38 *Vict. c.* 96 (*S.L.R.*), *except the parts here printed, so far as they relate to the additional duty or charge of* L.5 *per centum upon the produce and amount of the duties of excise.*]

1. An additional Duty of L.5 per cent. on the amount of all Customs and Excise Duties.—There shall be charged, raised, levied, collected, and paid an additional duty or charge of five pounds per centum upon the produce and amount of all the several duties and revenues of customs and excise charged and collected under the management of the commissioners of customs and excise respectively throughout the United Kingdom; . . . . . .

6. Additional Duty, &c. to be under the management of the Commissioners of Excise, and to be collected and applied under the Laws of Excise.—The said additional duty or charge of five pounds per centum on the produce or amount of the duties of excise, and the said additional drawbacks and allowances, and the said additional duty of excise on spirits, shall be under the management of the commissioners of excise for the time being; and the same shall and may be respectively raised, levied, recovered, paid and applied in such and the like manner, and in and by the same means, ways, or methods, by which the several and respective duties on the produce and amount of which the said additional duty or charge of five pounds per centum is hereby imposed, and the duties on spirits made or distilled in England, Scotland, and Ireland respectively are or may be charged, raised, levied, collected, recovered, paid, and applied; and all and every Act or Acts relating to the duties of excise, and all and every fine, penalty, or forfeiture, of any nature or kind whatsoever, for any offence against or in breach of any Act or Acts for securing the duties of excise or any of them, or for the regulation thereof, in force immediately before the passing of this Act, and the several clauses, powers, and directions therein contained, shall and the same are respectively hereby directed and declared to extend to, and shall be applied, practised, and put in execution (except where otherwise altered or declared by this Act), for and in respect of the additional duties of excise by this Act imposed, in as full and ample manner as if all and every the said Acts, clauses, provisions, powers, directions, fines, penalties, and forfeitures were repeated and re-enacted in this Act.

CHAPTER XVIII.

THE TOBACCO ACT, 1840 (*Short Titles Act*, 1896).

AN ACT to discontinue the Excise Survey on Tobacco, and to provide other Regulations in lieu thereof. [3d July 1840.]

[*Preamble recites* 9 *Geo.* 4, *c.* 44.]

[*S.* 1 *rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*).]

2. MANUFACTURERS, DEALERS, AND RETAILERS OF TOBACCO OR SNUFF TO ENTER THEIR PREMISES WITH THE OFFICERS OF EXCISE.—Every manufacturer of and dealer in and retailer of tobacco or snuff in the United Kingdom shall make a true entry of every workhouse, storehouse, room, shop, and place by him made use of, or intended to be made use of, for the manufacturing, storing, keeping, and selling of tobacco or snuff, by delivering such entry to the officer of excise in whose survey his manufactory or premises shall be situated; and in every such entry every workhouse, storehouse, room, shop, and place shall be distinguished by a particular number or letter, or number and letter, or letters; and every such workhouse, storehouse, room, shop, and place shall also be kept marked and numbered with the like distinguishing numbers or letters, or number and letters corresponding to the description thereof in the entry; and in default thereof such manufacturer, dealer, or retailer shall, for every workhouse, storehouse, room, shop, or place not entered, or not marked or numbered, forfeit one hundred pounds, together with all tobacco and snuff found therein.

3. OFFICERS OF EXCISE MAY ENTER PREMISES, AND EXAMINE TOBACCO AND SNUFF THEREIN.—It shall be lawful for any officer of excise at any time, but between the hours of ten of the clock in the evening and six of the clock in the morning only, with the assistance of a constable or other peace officer, to enter into any workhouse, storehouse, room, shop, or place made use of by any manufacturer of, dealer in, or retailer of tobacco or snuff, for the manufacturing, keeping, or selling of any tobacco or snuff, and to inspect and examine all tobacco and snuff therein; and every manufacturer of, dealer in, and retailer of tobacco or snuff, who shall, on demand, refuse to show to any officer of excise any tobacco or snuff in his custody or possession, or shall conceal from the sight or inspection of any officer of excise any tobacco or snuff, shall forfeit two hundred pounds, together with all the tobacco or snuff so concealed.

4. LEAF OR UNMANUFACTURED TOBACCO NOT TO BE RECEIVED INTO A MANUFACTURER'S STOCK OTHERWISE THAN FROM THE WAREHOUSE, AND ACCOMPANIED BY A PERMIT.—No manufacturer of tobacco or snuff shall receive into any workhouse, storehouse, room, shop, or place, or into his custody or possession, any leaf or unmanufactured tobacco of any description otherwise than from the warehouse in which the same shall be warehoused under the laws and regulations of the revenue of customs, and in the same hogsheads, cask, chest, or package, with the same marks and numbers thereon in which the same shall be cleared and delivered from such warehouse, on payment of the duty (save and except in the case of samples duly ticketed and certified by the proper officer of customs), nor without a true and lawful permit granted by the proper officer of excise, under the laws and regulations of excise relating to permits accompanying such tobacco; and every manufacturer of tobacco or snuff who shall receive or have in his custody or possession any leaf or unmanufactured tobacco contrary to the directions aforesaid, shall forfeit the same, and two hundred pounds for every such offence.

5. PERMIT TO BE DELIVERED UP ON THE NEXT VISIT OF THE OFFICER.—Every manufacturer of tobacco or snuff who shall receive into his custody or possession any leaf or unmanufactured tobacco, shall, on the next visit of the officer of excise under whose survey he shall be, produce and deliver up to such officer the permit which shall have accompanied such tobacco, and shall also, if required, show to such officer all such tobacco, or in case of any part thereof having been laid down for manufacture before the visit of the officer, so much thereof as shall remain, on pain of forfeiting for every omission or neglect two hundred pounds, and all such leaf or unmanufactured tobacco.

6. NO LEAF OR UNMANUFACTURED TOBACCO TO BE REMOVED WITHOUT A PERMIT.—2 & 3 WILL. 4, c. 16.—No leaf or unmanufactured tobacco of any description, save and except such samples as aforesaid, shall be carried or removed from any part or place in

the United Kingdom to any other place or part thereof, without a true and lawful permit granted by the proper officer of excise, under the rules and regulations of an Act passed in the second year of the reign of his late Majesty King William the Fourth, intituled "An Act to consolidate and amend the laws regulating the granting and "issuing permits for the removal of goods under the laws of excise," accompanying the same, under the pains, penalties, and forfeitures in the said Act contained.

[*S.* **7** *rep.* 5 *&* 6 *Vict. c.* 93, *s.* 9.]

8. A Book to be delivered to Manufacturers, who shall enter therein all Tobacco received, with the name of the person from whom received, &c.—Such Book to be open to inspection of Excise Officers, &c.—A book, prepared with proper and distinct columns for the purpose, shall be delivered by the proper officer of excise to every manufacturer of tobacco or snuff; and every such manufacturer shall, on the same day on which he shall receive any leaf or unmanufactured tobacco, or any stalks or returns of tobacco, write and enter in such book as aforesaid, in the proper column prepared for such purpose, the day when and the number of pounds weight of leaf or unmanufactured tobacco, stalks, or returns of tobacco which he shall have so received, and the christian and surname of the person from whom and the place from which he shall have received the same; and every such manufacturer shall keep such book, with all entries made therein, in some public and open part of his entered premises, for the inspection of the officers of excise, and shall deliver up every such book as aforesaid to any officer of excise demanding the same, and permit him to make any minute therein or any extract therefrom, which such officer shall think fit; and every manufacturer of tobacco who shall receive any leaf or unmanufactured tobacco, stalks, or returns of tobacco into his custody or possession, and shall not make entry of the particulars thereof as aforesaid within the time herein-before required or who shall not keep such book as aforesaid, or shall not deliver up the same to any officer of excise, on demand, or shall obstruct or hinder any officer of excise in making any minute therein or extract therefrom or shall convey away or conceal the same, or destroy or tear out any leaf therefrom, or make any false entry therein, or fraudulently alter any entry therein, shall forfeit two hundred pounds, together with all the leaf or unmanufactured tobacco, stalks, or returns of tobacco, of which due entry shall not have been made in such book.

9. The Licence Duty on Manufacturers of Tobacco or Snuff under 6 Geo. 4, c. 81, to be rated on the quantities received by them in the previous year.—[*Recital*] Every manufacturer of tobacco or snuff shall, for every licence to be taken out by him under the provisions of an Act passed in the sixth year of the reign of his said late Majesty King George the Fourth, intituled, "An Act to repeal several duties "payable on excise licences in Great Britain and Ireland, and to impose other duties in "lieu thereof, and to amend the laws for granting excise licences," pay such amount of duty as shall, according to the rates by the said Act imposed, appear to be payable in respect of the quantity of leaf or unmanufactured tobacco, stalks, and returns of tobacco shown by the permits and by the entries in the said book to have been brought in or received by him in the year previous to taking out such licence.

10. Manufacturers of Tobacco and Snuff, on application for Licence, shall produce their Books, and make declaration of the truth of the Entries therein—5 & 6 Will. 4, c. 62.—Every manufacturer of tobacco or snuff shall, at the time of applying for his licence in each year, produce to the collector or other officer of excise authorized to grant licences the said book herein-before required to be kept, with the quantities of leaf tobacco, stalks, and returns of tobacco received, as entered in the respective columns, duly cast up and brought to totals; and such manufacturer shall, before being granted any new licence, make before the said collector or other officer who is hereby authorized to receive the same, a declaration in writing under the provisions of an Act passed in the fifth and sixth years of the reign of his late Majesty King William the Fourth, intituled "An Act . . . to make provisions for the "abolition of unnecessary oaths," setting forth and declaring that the said book does contain a full, true, particular, and just account of all leaf or unmanufactured tobacco, stalks, and returns of tobacco of every description received by him in the year preceding the fifth day of July then last past; and if such declaration shall be false or untrue in any particular, the manufacturer making the same shall be subject to the pains and punishment prescribed by the said recited Act of the fifth and sixth years of his late Majesty's reign, for making a false and undue declaration.

[*Ss.* **11, 12** *rep.* 5 *&* 6 *Vict. c.* 93, *ss.* 11, 12.]

13. No Drawback on Cut, Roll, or Carrot Tobacco containing Stalks, &c.—Penalty on manufacturing such for Exportation.—No drawback shall be allowed on any cut, roll, or carrot tobacco containing any tobacco stalks, or which has not been wholly made from tobacco leaf having the tobacco stalk stripped and separated therefrom, or from such leaf so stripped, and returns of tobacco leaf so stripped and without the stalks thereof; and every manufacturer of tobacco who shall manufacture or have in his custody or possession any such cut, roll, or carrot tobacco for exportation, shall forfeit two hundred pounds; and all such tobacco shall be forfeited, and may be seized by any officer of customs or excise.

14. No Drawback on Tobacco not properly manufactured.—No drawback shall be allowed on any tobacco which shall not have been wholly manufactured from tobacco on which the full duty on importation shall have been paid, nor on any tobacco which shall be mixed with any dirt or rubbish, or which shall be made or manufactured with or to which shall be added any other ingredients, matter, or thing not necessary or usual in the manufacturing of tobacco.

15. Penalty on fraudulently attempting to obtain Drawback.—Every person who shall enter or ship, or cause to be entered or shipped, or produce or cause to be produced to any officer of customs to be shipped for exportation, any tobacco not entitled to drawback under this or any other Act relating to tobacco, or any other goods, matter, or thing as tobacco, the same not being tobacco, or shall fraudulently remove, deposit, or conceal any tobacco or other goods, matter or thing with intent unduly to obtain any drawback on tobacco, or any greater drawback than he would otherwise be entitled to, shall, over and above all other penalties which he may thereby incur, forfeit treble the amount of the drawback sought to be obtained, or two hundred pounds, at the election of the commissioners of customs; and all such tobacco or other goods, matters, or things shall be forfeited, and may be seized by any officer of customs or excise.

[*Ss.* **16, 17** *rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*).]

CHAPTER XLVIII.

The Entail Sites Act, 1840 (*Short Titles Act,* 1896).

An Act to enable Proprietors of Entailed Estates in Scotland to Feu or Lease on long Leases Portions of the same for the building of Churches and Schools, and for Dwelling Houses and Gardens for the Ministers and Masters thereof. [4th August 1840.]

[*Preamble.*]

1. Heirs of Entail may grant of let portions of the Estates for Sites of Churches, &c.—It shall be lawful to the heirs of entail for the time being in possession of entailed estates in Scotland, and having made up a feudal title thereto, if of lawful age, or, if in pupillarity or minority, or under mental or other legal disability, then to the tutors or curators or other legal guardians of such heir, notwithstanding any prohibitory, irritant, and resolutive clauses contained in any entail already made and established, or which may hereafter be made and established, pursuant to the directions contained in an Act of the Parliament of Scotland made in the year one thousand six hundred and eighty-five, intituled "Act concerning tailzies," to grant or dispose in feu, or to let or lease for any period of endurance, for such yearly feu duty or rent as may be agreed upon, though inadequate and below the just avail or value, portions of such estates respectively, not exceeding the extent herein-after mentioned, as the sites of places of public christian worship, and schools, and for burying grounds and playgrounds for such places of public worship and schools respectively, and also for dwelling houses and gardens for the ministers and schoolmasters thereof respectively; and the feu charters or dispositions or leases so to be granted shall be good, valid, and effectual to the grantee or lessee under the same against any subsequent heir of entail, and the granting of the same shall not infer any forfeiture, irritancy, or claim of reparation against the heir

granting such feu or lease: Provided always that the sheriff to whom application shall be made in manner after directed shall be satisfied of the propriety of the measure in the whole circumstances; and that no grassum, fine, or other consideration shall be paid or given therefor to or for the exclusive benefit or advantage of the heir of entail in possession granting such feu or lease, or of the heir of entail consenting thereto as hereinafter provided; and provided also, that the extent of ground feued or leased shall not exceed one fourth of an acre for any one place of worship, nor one acre for any one burying ground attached thereto, nor one eighth of an acre for any one dwelling house for a minister or schoolmaster, nor one acre for any schoolhouse and playground attached thereto, nor half an acre for the garden attached to such dwelling houses respectively.

2. Rights of Heir of Entail in possession not to be prejudiced.—Provided always, that nothing herein contained shall prevent or be construed to prevent any heir of entail in possession from exercising any power of granting feus and leases, which may be contained in the entail under which he possesses, more extensive than the power of granting feus or leases hereby conferred, and without any application to the sheriff hereby directed.

3. No Feu or Lease to be granted without permission of Sheriff, &c., who may refuse if he deems it injurious to succeeding Heirs.—Previous to the granting any such feu or lease, the heir of entail intending to grant the same shall present a petition to the sheriff of the county within which the entailed land to be feued or leased lies, setting forth the particular description and extent of land proposed to be feued or leased, the purpose to which the same is to be applied, and the parties in whom it is to be vested in trust for such purposes, and praying the sheriff to interpose his authority thereto; and such sheriff shall thereupon, unless the consent in writing of the heir of entail of lawful age next in order of succession to such entailed estate shall be produced with the petition, order intimation of such petition to be made to the said heir of entail next in order of succession within the United Kingdom, or, if out of the United Kingdom, then to the factor or agent of such next heir if of lawful age, and, if in pupillarity or minority, or under mental or other legal disability, then to the tutors or curators or other legal guardians of such heir, and shall, unless such consent shall be produced, also order notice of such petition, in such terms as he shall direct, to be published in the Edinburgh Gazette, and in some one newspaper, to be fixed on by him, three times at intervals of fourteen days; and upon production to the sheriff of such intimation and publication, if there be any such heir in existence and known, or otherwise of such publication, with a declaration by the petitioner, to which he may be required to make oath that no such heir is in existence or known, he shall resume the consideration of the petition, and shall institute such inquiry into the circumstances of the case as he shall think necessary; and after hearing the heir of entail to whom notice shall be so given, if he shall appear to oppose the granting the prayer of the said petition, the sheriff shall, whether appearance be made or not, if satisfied of the propriety of the measure, pronounce a deliverance interponing his authority thereto as craved, or under such limitation or qualification as he may judge necessary or proper, or he may refuse the prayer of the petition if he should deem the granting the feu or lease injurious, otherwise than as regards the feu duty or rent as aforesaid, to the interest of the succeeding heirs of entail.

4. Heir of Entail not liable to Forfeiture or loss of Right by granting Feu or Lease.—The authority of the sheriff being interponed as aforesaid, it shall be lawful to the heir of entail so applying to execute a feu charter or lease, as the case may be, in conformity with the said petition and deliverance thereon, in favour of the presbytery of the bounds, or the trustees or managers or directors of the place of christian worship or school respectively, and their successors in office, or such other body as may be selected and agreed upon, in trust for the purposes set forth in such petition; and such heir shall not, by the execution of such feu charter or long lease, incur any forfeiture, irritancy, or loss of right, any thing in the deed of entail under which he holds the entailed estate to the contrary notwithstanding.

5. Feu Charter, when recorded, to vest Lands in Grantees and their Successors, without Transfer, &c.—The recording of such feu charter in the general register of sasines (and the keepers thereof are hereby authorised and required to register the same) shall, without any infeftment thereupon, validly and effectually vest and seise the grantees in such charter in the land thereby conveyed; and such feu charters and leases

shall be effectual to the successors in office of the persons in whose favour the same shall have been granted for the trust purposes for which they were granted, without any transference or renewal of the investiture, in all time thereafter, as regards such feu charters, and during the whole duration of such leases.

6. Trustees not to dispone, &c. Land, or assign Leases.—It shall not be competent or lawful to the parties in whose favour such feu charters or leases shall have been granted in trust as aforesaid, or their successors in office, to dispone, let, sub-feu or sub-let the lands so held by them, nor to assign such leases, nor to borrow money on the security of the same, nor to burden the lands held by them in any way with debts or obligations of any description; and all dispositions, sub-feus, heritable bonds or dispositions in security, leases and sub-leases of the lands so feued or leased, or assignations of such leases, and adjudications of such lands in implement or for any such debt or obligation, shall be null and void to all intents and purposes.

7. Lands, or Buildings thereon, not to be used for any purpose than that for which they were granted, &c.—It shall not be lawful to the parties in whose favour such feu charter or lease shall have been granted, or their successors, to divert the land so feued or leased, or the buildings erected thereon, to any other purpose than the purpose for which the same shall have been feued or leased; and if such land or buildings shall at any time be so diverted, or shall be, for the period of five years, left unemployed for the purposes for which the same were feued or leased, it shall be competent for the heir of entail in possession for the time being to apply by petition to the sheriff of the county in which the land or buildings lie, setting forth the diversion or abandonment, and praying to have the feu charter or other right or lease declared to be forfeited, and the land therein contained, with the buildings erected thereon, to belong to the heirs of entail of the estate in relation to which such feu charter or lease was granted, in all time thereafter, free from and unaffected by such feu charter or lease, and to be again subject to the destination and fetters of the entail of such estate; and the said sheriff, after ordering intimation of such petition to the parties at the time in right of such feu charter or lease, if known, and also public notice to be affixed on the door of the parish church of the parish within which the land feued or leased is quoad sacra situated, for three successive Sundays, shall, on evidence of such intimation and publication being produced to him, resume consideration of the petition, and shall inquire into the alleged diversion or abandonment, and shall hear the parties in the right of the feu charter or lease, or any of the inhabitants of the parish for whose behoof the land is held, and receive any competent evidence that shall be offered by any of the parties interested; and if he shall find the allegation of diversion or abandonment proved, he shall pronounce a deliverance to that effect, and shall declare the feu charter or lease forfeited, and the portions of ground therein contained to belong to the heirs of entail aforesaid, in all time thereafter, free from and unaffected by such feu charter or lease, and subject to the destination and fetters of the entail of the estate in relation to which such feu charter or lease was granted; and such decree of declarator shall be recorded in the general register of sasines, and the land and subjects to which the same relates shall be thereafter possessed by such heirs of entail accordingly, and as if such feu charter or lease had never been granted.

[*S.* 8 *rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*).]

CHAPTER LIX.

The Evidence (Scotland) Act, 1840 (*Short Titles Act*, 1896).

An Act for the Amendment of the Law of Evidence in Scotland.

[7th August 1840.]

Preamble.

1. Witnesses admissible notwithstanding relationship to parties.—It shall by the law of Scotland be no objection to the admissibility of any witness that he or she is the father or mother, or son or daughter, or brother or sister, by consanguinity or affinity, or uncle or aunt, or nephew or niece, by consanguinity, of any party adducing

such witness in any action, cause, prosecution, or other judicial proceeding, civil or criminal; nor shall it be competent to any witness to decline to be examined and give evidence on the ground of any such relationship.

2. Examination in initialibus may be dispensed with.—It shall not be necessary for any judge in Scotland, or for any person acting as commissioner in taking evidence in any action, cause, prosecution, or other judicial proceeding, civil or criminal, depending in Scotland, to examine any witness in initialibus: Provided always, that it shall nevertheless be competent for any such judge or person acting as commissioner, or the party against whom the witness shall be called, to examine any witness in initialibus as heretofore.

3. Presence in Court not to disqualify Witnesses in certain cases.—In any trial before any judge of the Court of Session or Court of Justiciary, or before any sheriff in Scotland, it shall not be imperative on the court to reject any witness against whom it is objected that he or she has, without the permission of the court, and without the consent of the party objecting, been present in court during all or any part of the proceedings; but it shall be competent for the court, in its discretion, to admit the witness, where it shall appear to the court that the presence of the witness was not the consequence of culpable negligence or criminal intent, and that the witness has not been unduly instructed or influenced by what took place during his or her presence, or that injustice will not be done by his or her examination.

4. Examination of Witnesses by the parties against whom they are produced.—In any action, cause, prosecution, or other judicial proceeding, civil or criminal, where proof shall be taken, whether by the judge or a person acting as commissioner, it shall be competent for the party against whom a witness is produced and sworn in causa to examine such witness, not in cross only, but in causa.

[*S.* **5** *rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*).]

CHAPTER LXXIV.

The Oyster Fisheries (Scotland) Act, 1840 (*Short Titles Act*, 1896).

An Act for the better Protection of the Oyster Fisheries in Scotland.

[7th August 1840.]

[*Preamble.*]

1. Penalty for stealing Oysters or Oyster Brood.—If any person in that part of the United Kingdom called Scotland shall wilfully and knowingly take and carry away any oysters or oyster brood from any oyster bed, laying, or fishery, being the property of any other person or persons, body corporate or politic, and sufficiently marked out or known as such, every such offender shall be deemed guilty of theft, and being guilty thereof shall be liable to be sentenced to imprisonment not exceeding the term of one year.

2. Penalty for using Dredges, &c. within Limits of Oyster Fisheries.—If any person shall unlawfully and wilfully use any dredge, or any net, instrument, or engine whatsoever, within the limits of any such oyster fishery in Scotland, for the purpose of taking oysters or oyster brood, although none shall be actually taken, or shall, with any net, instrument, or engine, drag upon the ground or soil of any such fishery, every such person shall be deemed guilty of an attempt to commit theft, and being convicted thereof shall be liable to be punished by fine or imprisonment, or both, as the court shall award; such fine not to exceed twenty pounds, and such imprisonment not to exceed three calendar months.

3. Act not to extend to persons fishing for floating Fish.—Provided always, that nothing in this Act contained shall prevent any person from catching or fishing for any floating fish within the limits of any oyster fishery, with any net, instrument, or engine adapted for taking floating fish only.

4. Act not to prevent persons exercising rights they now enjoy.—Provided always, that nothing in this Act contained shall prevent or be construed to prevent any person or persons from exercising any right which may now be lawfully exercised within the limits of any such fishery.

CHAPTER LXXXV.

THE CHIMNEY SWEEPERS AND CHIMNEYS REGULATION ACT, 1840 (*Short Titles Act*, 1896)

AN ACT for the Regulation of Chimney Sweepers and Chimneys.

[7th August 1840.]

[*Preamble* (*reciting* 4 & 5 *Will.* 4, *c.* 35) *rep.* 51 & 52 *Vict. c.* 57.]

[*S.* **1** *rep.* 37 & 38 *Vict. c.* 96 (*S.L.R.*).]

2. PENALTY FOR COMPELLING OR ALLOWING CHILDREN TO CLIMB CHIMNEYS.— . . . Any person who shall compel or knowingly allow any child or young person under the age of twenty-one years to ascend or descend a chimney, or enter a flue, for the purpose of sweeping, cleaning, or coring the same, or for extinguishing fire therein, shall be liable to a penalty not more than ten pounds . . . . . .

S. 2 *in part rep.* 37 & 38 *Vict. c.* 96 (*S.L.R.*).

3. NO CHILD UNDER SIXTEEN YEARS TO BE APPRENTICED TO A CHIMNEY SWEEPER.— . . . It shall not be lawful to apprentice to any person using the trade or business of a chimney sweeper any child under the age of sixteen years; and every indenture of such apprenticeship which may be entered into . . . shall be null and void.

S. 3 *in part rep.* 37 & 38 *Vict. c.* 96 (*S.L.R.*).

[*Ss.* **4, 5** *rep.* 37 & 38 *Vict. c.* 96 (*S.L.R.*).]

6. REGULATIONS AS TO CONSTRUCTION OF CHIMNEYS AND FLUES.—[*Recital*] All withs and partitions between any chimney or flue which at any time shall be built or rebuilt, shall be of brick or stone, and at least equal to half a brick in thickness; and every breast-back and with or partition of any chimney or flue hereafter to be built or rebuilt shall be built of sound materials, and the joints of the work well filled in with good mortar or cement, and rendered or stuccoed within; and also every chimney or flue hereafter to be built or rebuilt in any wall, or of greater length than four feet out of the wall, not being a circular chimney or flue twelve inches in diameter, shall be in every section of the same not less than fourteen inches by nine inches; and no chimney or flue shall be constructed with any angle therein which shall be less obtuse than an angle of one hundred and twenty degrees, except as herein-after excepted; and every salient or projecting angle in any chimney or flue shall be rounded off four inches at the least; upon pain of forfeiture, by every master builder or other master workman who shall make or cause to be made such chimney or flue, of any sum of not less than ten pounds nor exceeding fifty pounds: Provided nevertheless, that notwithstanding this Act chimneys or flues may be built at angles with each other of ninety degrees and more, such chimneys or flues having therein proper doors or openings not less than six inches square.

7. BEFORE WHOM CONVICTIONS MAY BE HAD—PENALTIES HOW TO BE LEVIED AND APPLIED.—All convictions for penalties for any offence against this Act may be had before two or more justices of the peace acting for the county, riding, city, borough, division, or place where the offence shall happen, or before the sheriff of any county in Scotland; and such penalties, and the costs and charges attending the recovery thereof, shall be levied by distress and sale of the goods and chattels of the offender or person liable or ordered to pay the same respectively, by warrant under the hands and seals of two or more of the said justices, or under the hand of any such sheriff, rendering the overplus of such distress and sale (if any) to the party or parties, after deducting the charge of making the same; which warrant such justices or sheriffs are hereby empowered and required to grant, upon conviction of the offender by confession, or oath of one or more credible witness or witnesses; and the penalties, costs and charges, when so levied, shall be paid, the one half to the informer, and the other half to the overseers or managers of the poor of the parish, township, or place where the offender shall dwell and inhabit, to be by such overseers or managers applied in aid of the rate or assessment raised for the relief of the poor of such parish, township, or place, and in Scotland, in parishes where there shall be no assessment for the relief of the poor, as

the said managers shall direct, or to her Majesty in case there shall be no such overseer or manager.

8. In default of payment of Penalty the parties convicted to be sent to Prison.—The justices of the peace or sheriffs by whom any person shall be convicted and adjudged to pay any sum of money for any offence against this Act, may adjudge that such person shall pay the same together with costs, either immediately or within such period as the said justices shall think fit; and in default of payment at the time appointed such person shall be imprisoned in the common gaol or house of correction (with or without hard labour), as to the said justices or sheriffs shall seem meet, for any time not exceeding two calendar months; the commitment to be determinable upon payment of the amount of the penalty and costs.

[*S.* **9** *rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*). *S.* **10** *rep.* 55 *&* 56 *Vict. c.* 19 (*S.L.R.*).]

11. Appeal.—Any person who shall think himself or herself aggrieved by any conviction by any justice or justices of the peace under this Act, may appeal to the next court of general or quarter sessions of the peace . . . ; and all judgments, determinations, and proceedings of such justices not appealed from as aforesaid, and of such sheriff or quarter sessions, shall be final, and not subject to review by any process of law or court whatever, any law or usage to the contrary notwithstanding.

S. 11 *in part rep.* 55 *&* 56 *Vict. c.* 19 (*S.L.R.*).

12. Conviction, &c. not to be quashed for want of form, &c.—No conviction or adjudication made on appeal therefrom shall be quashed for want of form, or be removed by certiorari or otherwise into any of her Majesty's superior courts of record;

. . . . . .

S. 12 *in part rep.* 55 *&* 56 *Vict. c.* 19 (*S.L.R.*).

[*S.* **13** *rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*).]

CHAPTER XCVI.

The Post Office (Duties) Act, 1840 (*Short Titles Act*, 1896).

An Act for the regulation of the Duties of Postage.[1] [10th August 1840.]

[1] *By* 38 *&* 39 *Vict. c.* 22, *s.* 14, *it is enacted, that so much of the Post Office Duties Acts*, 1840 *to* 1871, *or of any warrant or regulations made thereunder, as is inconsistent with that Act or with any warrant made under that Act, or as is expressed by any such warrant to be repealed, shall be repealed as from the date at which that Act or the warrant made under that Act, as the case may be, with which it is so inconsistent or by which it is expressed to be repealed, comes into operation.*

[*Preamble recites* 2 *&* 3 *Vict. c.* 52.]

1. Letters and Newspapers and other printed Papers to be subject to Regulations and Rates after mentioned.—All letters and newspapers and other printed papers which shall be posted in any town or place within the United Kingdom, or shall be brought from parts beyond the seas to any port or place within the United Kingdom, or shall be sent by the post between the United Kingdom and places beyond the seas, or between any of the other places herein-after mentioned, or shall pass through the United Kingdom, shall be subject to the several regulations and rates herein-after contained.

[*S.* **2** *rep.* 41 *&* 42 *Vict. c.* 79 (*S.L.R.*). *S.* **3** *rep.* 10 *&* 11 *Vict. c.* 85, *s.* 6. *S.* **4** *rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*).]

5. Forwarding of Letters by Private Vessels, &c.—The postmaster general may forward letters between places in the United Kingdom by vessels not packet boats; and all letters forwarded under the authority of the postmaster general by private vessels or packet boats, and transmitted between places in the United Kingdom, shall be considered as forwarded by the post between such places, and be charged accordingly.

[*S.* **6** *rep.* 41 *&* 42 *Vict. c.* 79 (*S.L.R.*).]

7. Ship Letters.—The postmaster general may collect and receive letters to forward by vessels not packet boats to places beyond the seas, and may forward the same accordingly, and may collect and receive letters brought by any such vessels from places beyond the seas.

[*Ss.* **8–10** *rep.* 41 *&* 42 *Vict. c.* 79 (*S.L.R.*). *S.* **11** (*establishing rates of postage on Parliamentary proceedings*) *rep.* 33 *&* 34 *Vict. c.* 79, *s.* 4.]

12. Letter, &c. in stamped Covers shall pass free by the Post, &c.—All letters posted in any town or place within the United Kingdom shall, if written on stamped paper or enclosed in stamped covers, or having a stamp or stamps affixed thereto, and all printed votes and proceedings of the Imperial Parliament, and all newspapers which shall be liable to postage under this Act shall, if posted in any town or place within the United Kingdom and enclosed in stamped covers, or having a stamp or stamps affixed thereto, (the stamp or stamps in every such case being affixed or appearing on the outside, and of the value or amount herein-after expressed and specially provided under the authority of this Act . . . and if the stamp shall not have been used before,) pass by the post free of postage, as herein-after mentioned; (that is to say,)

In case any such letters shall be posted in and addressed to any place within the United Kingdom, the stamp or stamps thereon shall be equal in value or amount to the rates of postage to which such letters would be liable under this Act if pre-paid:

In case any such letters shall be addressed to any other of the British dominions or colonies, or to any foreign country, the stamp or stamps thereon shall be equal in value or amount to the rates of British postage to which such letters would have been liable under this Act:

And on all such printed votes and proceedings of Parliament and newspapers the stamp or stamps shall be equal in value or amount to the rates of postage to which such votes or proceedings or newspapers would have been liable under this Act:

And in all cases in which the same shall be necessary, in order to place on any such letters, printed votes or proceedings of Parliament, and newspapers, the full amount of stamps hereby required as aforesaid, there shall be affixed thereto such a number of adhesive stamps as alone or in combination with the stamp on such letters or packets, or on the envelope or cover thereof, will be equal in amount to the rate of postage to which such letters, printed votes or proceedings of Parliament, and newspapers would be liable under this Act.

S. 12 *in part rep.* 56 *&* 57 *Vict. c.* 14 (*S.L.R.*).

13. Additional Postage on Letters not stamped or pre-paid, &c.—In all cases in which letters posted in and addressed to places within the United Kingdom shall be posted without any stamp thereon, and without the postage being pre-paid, there shall be charged on such letters a postage of double the amount to which such letters would otherwise be liable under this Act; and in all cases in which printed votes or proceedings of Parliament, *or newspapers* liable to postage under this Act, shall be posted without any stamp thereon, there shall be charged on such votes and proceedings, *or newspapers*, the postage to which the same would be liable under this Act.

S. 13 *rep. so far as it relates to printed votes or proceedings of Parliament, addressed to places out of the United Kingdom, or to newspapers,* 33 *&* 34 *Vict. c.* 79, *s.* 4.

[*S.* **14** *rep.* 54 *&* 55 *Vict. c.* 47, *s.* 13.]

15. Charge on Letters with Stamps not equal to Postage.—In all cases in which any letters posted in and addressed to places within the United Kingdom shall be posted, having thereon or affixed thereto any stamp or stamps the value or amount of which shall be less than the rate of postage to which such letters would be liable under this Act if pre-paid, there shall be charged on such letters a postage of double the amount of the difference between the value of such stamp or stamps and the postage to which such letters would be liable as aforesaid if pre-paid.

16. Charge on Parliamentary Proceedings with Stamps not equal to Postage.—In all cases in which any votes or proceedings of Parliament, *newspapers* addressed to places within the United Kingdom, shall be posted having thereon or affixed thereto

any stamp or stamps the value or amount of which shall be less than the rate of postage to which such votes or proceedings *or newspapers* would be liable under this Act, there shall be charged on such votes or proceedings *or newspapers* a postage equal to the amount of the difference between the value of such stamp or stamps and the postage to which such votes or proceedings *or newspapers* would be liable as aforesaid.

S. 16 *rep., so far as it relates to printed votes or proceedings of Parliament, addressed to places out of the United Kingdom, or to newspapers,* 33 & 34 *Vict. c.* 79, *s.* 4.

[*S.* **17** *rep.* 41 & 42 *Vict. c.* 79 (*S.L.R.*). *S.* **18** *rep.* 54 & 55 *Vict. c.* 46, *s.* 13. *S.* **19** *rep.* 54 & 55 *Vict. c.* 38, *s.* 28. *S.* **20** *rep.* 44 & 45 *Vict. c.* 12, *s.* 48.]

21. Duties denoted by Dies to be deemed Stamp Duties, &c.—The rates or duties which shall be expressed or denoted by any such dies as aforesaid shall be denominated and deemed to be stamp duties, and shall be under the care and management of the commissioners of stamps and taxes for the time being; . . . . . .

S. 21 *in part rep.* 54 & 55 *Vict. c.* 38.

[*Ss.* **22–30** *rep.* 54 & 55 *Vict. c.* 38, *s.* 28. *Ss.* **31, 32** *rep.* 41 & 42 *Vict. c.* 79 (*S.L.R.*).]

33. Postage on Letters in the Colonies, &c.—It shall be lawful for her Majesty's postmaster general to charge on all letters conveyed by the post between places within any of her Majesty's Colonies, or conveyed by packet boats between one part of her Majesty's dominions and another part of the same dominions, or between her Majesty's dominions and foreign parts, or between one port in any foreign country and another port in the same or any other foreign country, where post communications shall be established, . . . and also to charge on all letters conveyed by any vessels to or from any of the colonies, or between any of the colonies, or between any of the colonies and a foreign port, and on all letters which shall be brought by the master of any vessel to the post office in any of the colonies, such rates of postage as the Treasury, by warrant, shall from time to time direct.

S. 33 *in part rep.* 7 & 8 *Vict. c.* 49, *s.* 7, *and whole section rep., except so much as defines letters chargeable with postage,* 41 & 42 *Vict. c.* 79 (*S.L.R.*).

[*S.* **34** *rep.* 41 & 42 *Vict. c.* 79 (*S.L.R.*).]

35. Letters of Owners of inward-bound Vessels, &c.—The owners, charterers, or consignees of vessels inward-bound, and the owners, consignees, or shippers of goods on board vessels inward-bound, shall have their letters by such vessels free from postage (except as herein-after mentioned), if delivered at the port of the ship's arrival, and, if delivered at any other place within the United Kingdom, on payment of the postage, as on pre-paid inland letters, . . . from the port of arrival to the place of delivery, and, if delivered in any of her Majesty's colonies, on payment of the colonial rates of postage to which letters in such colony may be liable, on conveyance from such port of arrival to the place of delivery; provided the letters brought by any one vessel to any one such person shall not collectively exceed six ounces in weight (except in the case of letters brought by vessels coming from Ceylon, the Mauritius, the East Indies, or the Cape of Good Hope, into any port of the United Kingdom, for an owner, charterer, or consignee of such vessel, in which case they may be collectively twenty ounces in weight); and the owner, charterer, or consignee shall be described as such on the address and superscription; and in the case of owners, shippers, or consignees of goods, it shall also appear by the ship's manifest that they have goods on board the vessel; and the persons hereby exempted shall be entitled to have their letters which come within the above conditions before the master of the vessel delivers the other letters in his charge to the post office: Provided nevertheless, that all ship letter gratuities payable by law to masters of vessels bringing any such letters shall in all cases be paid to the post office by the parties to whom the same may be addressed (in addition to any postage payable thereon) before delivery of such letters to the parties entitled to receive the same, whether such letters shall be delivered at the port of arrival of such vessel or elsewhere.

S. 35 *in part rep.* 41 & 42 *Vict. c.* 79 (*S.L.R.*).

36. Gratuities to Masters of Vessels—Masters of Vessels to receive Letters

AND TO DELIVER THEM AT THE FIRST PORT OF ARRIVAL—DECLARATION TO BE MADE BY MASTERS—OFFICERS OF CUSTOMS NOT TO ALLOW VESSELS TO REPORT BEFORE DECLARATION MADE, &C.—The postmaster general may allow to masters of vessels, on letters and newspapers conveyed by them for and on behalf of the post office between places within the United Kingdom, a sum not exceeding two shillings and sixpence for each and every number of one hundred of such letters and newspapers, and for any less number in the like proportion, and may allow to the masters of vessels bound from the United Kingdom to the East Indies a sum not exceeding one penny for each letter and one halfpenny for each newspaper conveyed by them for or on behalf of the post office, and may allow to the masters of all other vessels a sum not exceeding two-pence for each letter conveyed by them for or on behalf of the post office from the United Kingdom to places beyond sea, and may allow to the masters of all vessels not exceeding two-pence for each letter brought into the United Kingdom, which they shall deliver at the post office at the first port at which they touch or arrive, or with which they communicate; (all which gratuities may be paid at such times and places, and under all such regulations and restrictions, as the postmaster general shall in his discretion think fit;) and every master of a vessel outward-bound shall receive on board his vessel every post letter bag tendered to him for conveyance, and having received the same shall deliver it on his arrival at the port or place of his destination, without delay; and every master of a vessel inward-bound shall cause all letters on board his vessel (except those belonging to the owners of the vessel, or of the goods on board, which do not exceed the prescribed weights,) to be collected and enclosed in some bag or other envelope, and to be sealed with his seal, and to be addressed to any of her Majesty's deputy postmasters, that they may be in readiness to send on shore by his own boat, or by the pilot boat, or by any other safe or convenient means, in order that the same may be delivered at the first regular post office which can be communicated with, and at the regular port or place where the vessel shall report shall sign a declaration in the presence of the person authorized by the postmaster general at such port or place, who shall also sign the same, and the declaration shall be in the form or to the effect following; (that is to say,)

'I A.B., commander of the [state the name of the ship or vessel], arriving [state the 'place], do, as required by law, solemnly declare that I have, to the best of my knowledge 'and belief, delivered or caused to be delivered to the post office every letter bag, 'package, or parcel of letters that were on board the [state the name of the ship], 'except such letters as are exempted by law.'

And no collector, comptroller, or principal officer of the customs shall permit such vessel to report till such declaration shall be made and produced; and no vessel shall be permitted by any officer of the customs to break bulk or to make entry in any port of the British dominions, until all letters on board the same shall be delivered to the post office, where posts are or hereafter may be established, and from whence such letters may be despatched by post, except such letters, commissions, and other matters and things as are exempted by the Post Office Acts from the exclusive privilege of the postmaster general, . . . ; and the principal officer of customs at every port shall search every vessel for letters which may be on board contrary to the Post Office Acts, and may seize all such letters and forward them to the nearest post office; and the officer who shall so seize and send them shall be entitled to a moiety of the penalties which may be recovered for any such offence; and in case an officer of her Majesty's customs shall find a letter superscribed as the letter of an owner or charterer, or consignee or shipper, exceeding the weight herein-before limited, then the officer shall seize so many of the letters as shall reduce the remainder within the proper weight, and he shall take the same to the nearest post office, and the postmaster of the place shall pay to the officer delivering the same any sum the postmaster-general, with the consent of the Treasury, may think fit, not exceeding two shillings and sixpence for every post letter so seized; and the postmaster general may appoint any person to demand, from the masters of vessels arriving at or off a port of the United Kingdom, all letters on board the same not exempted by the Post Office Acts; and the master of any such vessel shall forthwith deliver all such letters on board to such person, on his demanding the same.

S. 36 *in part rep.* 59 & 60 *Vict. c.* 19.

37. CERTAIN PENALTIES UNDER 7 WILL. 4 & 1 VICT. C. 36, FURTHER EXTENDED—

7 Will. 4 & 1 Vict. c. 34.—The penalty which, by an Act passed in the first year of the reign of her present Majesty, intituled "An Act for consolidating the laws relative "to offences against the post office of the United Kingdom, and for regulating the "judicial administration of the post office laws, and for explaining certain terms and "expressions employed in those laws," is imposed on every master of a vessel outward-bound to Ceylon, the Mauritius, the East Indies, or the Cape of Good Hope, who shall refuse to take a post letter bag delivered or tendered to him by an officer of the post office, shall henceforth extend and apply to the master of every vessel outward-bound who shall refuse to take a post letter bag delivered or tendered to him for conveyance by an officer of the post office; and the penalty which, by the said Act of the first year of the reign of her present Majesty, is imposed on every master of a vessel who shall refuse or wilfully neglect to make the declaration of having delivered his ship letters to the post office, as required by an Act passed in the first year of the reign of her present Majesty, intituled "An Act for the regulation of the duties of postage," shall henceforth extend and apply to the master of every vessel who shall refuse or wilfully neglect to make the declaration of having delivered his ship's letters to the post office, as is required by this Act; and the penalty by the said first-mentioned Act imposed on every collector, comptroller, or officer of the customs, who by the said last-mentioned Act is required to prohibit any vessel reporting until the requisites of such last-mentioned Act shall have been complied with, and who shall permit such vessel to report before the requisites of such Act shall have been complied with, shall henceforth extend and apply to every collector, comptroller, or officer of the customs, who by this Act is required to prohibit any vessel reporting until the requisites of this Act have been complied with, and who shall permit such vessel to report before the requisites of this Act shall have been complied with.

38. Money Orders.—And whereas the postmaster general hath, with the concurrence of the Treasury, made regulations by which the public are enabled to remit small sums of money through the post office by means of money orders: Be it enacted, that such mode of transmitting money through the post office may have continuance so long as the Treasury shall see fit; and the postmaster general is hereby authorized to demand and receive for the use of her Majesty, in respect of such money or money orders, such rates of poundage as, with the consent of the Treasury, he may from time to time consider reasonable, which poundage shall be applied in the same manner as the post office revenue is or shall be applicable by law; . . . . . .

S. 38 *in part rep.* 37 & 38 *Vict. c.* 96 (*S.L.R.*).

[*S.* **39** *rep.* 41 & 42 *Vict. c.* 79 (*S.L.R.*).]

40. Petitions and Addresses to her Majesty exempt.—Petitions and addresses forwarded to her Majesty by the post shall be exempt from postage.

41. As also Petitions to Parliament.—Members of each House of Parliament may receive by the post petitions and addresses to her Majesty, and petitions addressed to either House of Parliament, not exceeding thirty-two ounces in weight, exempt from postage, provided such petitions and addresses be sent without covers, or in covers open at the sides.

[*S.* **42** (*as to postage on printed newspapers*) *rep.* 33 & 34 *Vict. c.* 79, *s.* 4.]

43. Newspapers need not be sent by Post.—Although newspapers may be sent by the post, . . . it shall not be compulsory to send them by post.

S. 43 *in part rep.* 37 & 38 *Vict. c.* 96 (*S.L.R.*).

[*Ss.* **44, 45** *rep.* 54 & 55 *Vict. c.* 67 (*S.L.R.*). *S.* **46** *rep.* 41 & 42 *Vict. c.* 79 (*S.L.R.*). *Ss.* **47–51** *rep.* 33 & 34 *Vict. c.* 79, *s.* 4.]

52. Allowance to Masters of Vessels for Newspapers.—The postmaster general may allow the masters of vessels, other than packet boats, a sum not exceeding one penny on every printed newspaper, foreign or colonial, brought into the United Kingdom from a port or place out of the United Kingdom and delivered by them at the post office of the post town at which they shall touch or arrive, and a sum not exceeding one penny on every printed newspaper conveyed by them for or on behalf of the post office from the United Kingdom to any port or place out of the same, in respect of which no gratuity is herein-before authorized to be allowed.

53. Letters of Sailors and Soldiers.—The following classes of persons may both send and receive letters, not exceeding half an ounce in weight, by the post, on their own private concerns, at a postage of one penny for each letter; (namely,)

Every seaman employed in her Majesty's navy, whether at home or abroad, whilst such seaman shall be actually employed in her Majesty's service.

Every serjeant, corporal, drummer, trumpeter, fifer, and private soldier in her Majesty's regular forces, militia, fencible regiments, artillery, or royal marines, whether at home or abroad, whilst actually employed in her Majesty's service.

Every serjeant, corporal, drummer, trumpeter, fifer, and private soldier in the service of the East India Company, whilst actually employed in the service of the company.

But the letters of commissioned officers or warrant officers, whether in the army or navy, or midshipmen, or masters mates of the navy, are not included in this provision.

And with respect to letters sent by any such privileged persons, the following conditions shall be observed; (that is to say,) the postage of each letter (unless sent from parts beyond the seas, as herein-after mentioned,) shall be paid, (or the letter, if posted within the United Kingdom, shall be duly and properly stamped,) on being put into a post office established under the authority of the postmaster general; and upon such letter shall be superscribed the name of the writer, and his class or description in the vessel, regiment, corps, or detachment to which he shall belong; and upon every such letter there shall be written in the handwriting of and signed by the officer having at the time the command of the vessel, or of the regiment, corps, or detachment to which the privileged person belongs, the name of such officer and the name of such vessel, or of such regiment, corps, or detachment.

And with respect to letters received by the post by any of the said privileged persons, the following conditions shall be observed; the postage of each letter (unless sent from parts beyond the seas as herein-after mentioned) shall be paid (or the letter, if posted within the United Kingdom, shall be duly and properly stamped) upon putting it into a post office established under the authority of the postmaster general, and it shall be directed to the privileged person, specifying on the superscription thereof the vessel, or the regiment, corps, or detachment to which he shall belong; and the deputy postmaster of the place to which such letter shall be sent to be delivered shall not deliver such letter to any person except the person hereby privileged to whom it shall be directed, or to some person appointed to receive the same by writing under the hand of the officer in command.

And whenever the letters sent or received by any such privileged persons shall be sent from parts beyond the seas without the said postage of one penny being prepaid, every such letter shall be charged to the party receiving the same with a rate of two-pence; and any letters received by the post under this enactment by any such privileged persons which may have been re-directed shall not be charged any postage on or in respect of such re-direction.

54. Sailors and Soldiers may send and receive Letters by private Ships.—Any such privileged persons may both send and receive letters, not exceeding half an ounce in weight, by private ships, between the United Kingdom and places beyond the seas, on their own private concerns, at the like postage for each letter, and subject to the like conditions and regulations in all respects, as are herein-before mentioned in respect of letters sent and received by any such privileged persons by the post; but whenever the letters sent or received by any such privileged persons shall be conveyed, or be intended to be conveyed, by private ships, the gratuities payable by law to the masters of such vessels in respect of such letters shall in all cases be paid to the post office in addition to such postage.

[*S.* **55** *rep.* 10 *&* 11 *Vict. c.* 85, *s.* 6. *Ss.* **56, 59** *rep.* 54 *&* 55 *Vict. c.* 67 (*S.L.R.*). *Ss.* **57, 58** *rep.* 41 *&* 42 *Vict. c.* 79 (*S.L.R.*).]

60. Postage, if not pre-paid, to be paid by the Receiver, &c.—In all cases in which the postage of any unstamped letter shall not have been paid by the sender, it

shall be paid by the person to whom the letter is addressed on the delivery thereof to him; but if the letter be refused, or the party to whom it is addressed shall be dead, or cannot be found, the writer or sender shall pay the postage; and this enactment shall apply to every packet, newspaper, and thing whatsoever chargeable with postage, which shall be transmitted by the post.

61. Gratuities to Masters of Vessels may be altered, &c.—It shall be lawful for the Treasury to make any reduction or increase or alteration they may consider expedient in the gratuities allowed by this Act to masters of vessels for letters and newspapers conveyed by them for or on behalf of the post office, or delivered by them to the post office, and to allow and authorize such gratuities for the conveyance of letters and newspapers, to masters of vessels, passing to or from or between any of Her Majesty's colonies or possessions beyond the seas, as they shall think fit, and also to allow and authorize any gratuities to be paid to pilots, seamen, or others, on the letters and newspapers they may bring to any post office from any vessels.

[*S.* **62** *rep.* 47 *&* 48 *Vict. c.* 76, *s.* 21. *S.* **63** *rep.* 41 *&* 42 *Vict. c.* 79 (*S.L.R.*). *S.* **64** *rep.* 54 *&* 55 *Vict. c.* 67 (*S.L.R.*).]

65. Letters with Contraband Goods.—It shall be lawful for the postmaster general, or any of his officers, to detain any post letter suspected to contain any contraband goods, and forward the same to the commissioners of her Majesty's customs, who, in the presence of the person to whom the same may be addressed, or in his absence, in case of non-attendance, after notice in writing from the said commissioners, requiring his attendance left at or forwarded by the post according to the address on the letter, may open and examine the same; and in case on any such examination any contraband goods shall be discovered, the said commissioners may detain the letter and its contents for the purpose of prosecution; and if no contraband goods shall be discovered in such letter, the same shall, if the party to whom the same is addressed be present, be handed over to him on his paying the postage (if any) charged thereon, or, if he shall not be present, the same shall be returned to the post office, and be forwarded to the place of its address.

66. Description of Postmaster General in Indictments, &c.—In any indictment or criminal letters for any offence committed upon or in respect of any property which may be laid in or stated to belong to the postmaster general, it shall be sufficient to state any such property to belong to and to lay it in "her Majesty's postmaster general"; and it shall not be necessary to specify the name or addition of any such postmaster general; and whenever, in any indictment or criminal letters for any offence committed against the Post Office Acts, it shall be necessary to mention for any purpose whatever her Majesty's postmaster general, it shall be sufficient to describe such postmaster general as "her Majesty's postmaster general," without any further or other name, addition, or description whatsoever.

67. Postmaster General to be a body corporate, &c.—And to enable the postmaster general for the time being to hold and take conveyances and leases of messuages, tenements, lands, and hereditaments for the service of the post office, and to transmit the same to his successors, be it enacted, that for such purpose her Majesty's postmaster general and his successors shall be and is and are hereby made a body corporate, and shall have a seal; and all messuages, tenements, lands, and hereditaments, of whatsoever nature and tenure, now vested in her Majesty's present postmaster general, his heirs, executors, administrators, or assigns, in trust for her Majesty shall immediately on the passing of this Act be and become vested in him in his corporate capacity, and his successors for ever, in trust as aforesaid.

[*Ss.* **68, 69** *rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*).]

70. Signature, &c. of Treasury Orders, &c.— . . . Whenever the order, consent, authority, or direction of the Treasury is prescribed by this Act, such order, consent, authority, or direction (not being by warrant) may be signified either under the hands of the commissioners of her Majesty's Treasury, or under the hand of one of their secretaries or assistant secretaries.

S. 70 *in part rep.* 41 *&* 42 *Vict. c.* 79 (*S.L.R.*).

71. Interpretation of Terms—7 Will. 4 & 1 Vict. c. 36.—The following terms and expressions, whenever used in this or any other Post Office Act, shall have the several interpretations herein-after respectively set forth, unless such interpretations are repugnant to the subject or inconsistent with the context of the provisions in which they may be found; . . . the term "inward-bound" shall be held to include vessels bound as well to any port in the United Kingdom as to any port in any of her Majesty's colonies; and the term "outward-bound" shall be held to include vessels bound as well from any port in the United Kingdom as from any port in her Majesty's colonies; and the term "United Kingdom" shall mean the United Kingdom of Great Britain and Ireland, and the islands of Man, Jersey, Guernsey, Sark, and Alderney; and the term "her Majesty's colonies" shall include every port and place within the territorial acquisitions now vested in the East India Company in trust for her Majesty, the Cape of Good Hope, the island of Saint Helena, the Ionian Islands, and Honduras, as well as her Majesty's other colonies and possessions beyond the seas (the islands of Man, Guernsey, Jersey, Alderney, and Sark only excepted); and the term "by the post" shall extend to and include the transmission of post letters as well by any general or twopenny or penny or convention post as by packet boat; and the term "post town" shall include every city, town, and place where a post office is or shall be established; and the several other terms and expressions used in this Act shall be construed according to the respective interpretations of the terms and expressions contained in the said Act passed in the first year of the reign of her present Majesty, intituled "An Act for consolidating the laws relative " to offences against the post office of the United Kingdom, and for regulating the " judicial administration of the post office laws, and for explaining certain terms and " expressions employed in those laws," so far as those interpretations are not repugnant to the subject or inconsistent with the context of such terms and expressions.

S. 71 *in part rep.* 41 *&* 42 *Vict. c.* 79 (*S.L.R.*).

[*Ss.* **72, 73** *rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*). *Sched. rep.* 41 *&* 42 *Vict. c.* 79 (*S.L.R.*).]

CHAPTER XCVII.

The Railway Regulation Act, 1840 (*Short Titles Act*, 1896).

An Act for regulating Railways. [10th August 1840.]

[*Preamble.*]

[*Ss.* **1, 2** *rep.* 34 *&* 35 *Vict. c.* 78, *s.* 17. *S.* 1 *refers to the Board of Trade as "The Lords of the Committee of her Majesty's Privy Council appointed for trade and foreign plantations."*]

3. Returns to be made by Railway Companies.—The lords of the said committee may order and direct every railway company to make up and deliver to them . . . a table of all tolls, rates, and charges from time to time levied on each class passengers, and on cattle and goods, conveyed on the said railway; and if the returns herein specified shall not be delivered within thirty days after the same shall have been required, every such company shall forfeit to her Majesty the sum of twenty pounds for every day during which the said company shall wilfully neglect to deliver the same; and every such penalty may be recovered in any of her Majesty's courts of record: Provided always, that such returns shall be required, in like manner and at the same time, from all the said companies, unless the lords of the said committee shall specially exempt any of the said companies, and shall enter the grounds of such exemption in the minutes of their proceedings.

S. 3 *rep., except so much as relates to a table of tolls, rates, and charges,* 34 *&* 35 *Vict. c.* 78, *s.* 17.

4. Penalty for making False Returns.—Every officer of any company who shall wilfully make any false return to the lords of the said committee shall be deemed guilty of a misdemeanor.

S. 4 *rep., except so much as relates to a table of tolls, rates, and charges,* 34 *&* 35 *Vict. c.* 78, *s.* 17.

[*Ss.* **5, 6** *rep.* 34 *&* 35 *Vict. c.* 78 *s.* 17.]

7. Copies of existing Byelaws to be laid before the Board of Trade, &c.—And whereas many railway companies are or may hereafter be empowered by Act of Parliament to make byelaws, orders, rules, or regulations, and to impose penalties for the enforcement thereof, upon persons other than the servants of the said companies, and it is expedient that such powers should be under proper control: Be it enacted, that true copies of all such byelaws, orders, rules, and regulations made under any such powers by every such company before the passing of this Act, certified in such manner as the lords of the said committee may from time to time direct, shall, within two calendar months after the passing of this Act, be laid before the lords of the said committee; and that every such byelaw, order, rule, or regulation, not so laid before the lords of the said committee within the aforesaid period, shall, from and after that period, cease to have any force or effect, saving in so far as any penalty may have been then already incurred under the same.

8. No future Byelaws to be valid till two calendar months after they have been laid before the Board of Trade.—No such byelaw, order, rule, or regulation made under any such power, and which shall not be in force at the time of the passing of this Act, and no order, rule, or regulation annulling any such existing byelaw, rule, order, or regulation, which shall be made after the passing of this Act, shall have any force or effect until two calendar months after a true copy of such byelaw, order, rule, or regulation, certified as aforesaid, shall have been laid before the lords of the said committee, unless the lords of the said committee shall, before such period, signify their approbation thereof.

9. Board of Trade may disallow Byelaw.—It shall be lawful for the lords of the said committee, at any time either before or after any byelaw, order, rule, or regulation shall have been laid before them as aforesaid shall have come into operation, to notify to the company who shall have made the same their disallowance thereof, and, in case the same shall be in force at the time of such disallowance, the time at which the same shall cease to be in force; and no byelaw, order, rule, or regulation which shall be so disallowed, shall have any force or effect whatsoever; or, if it shall be in force at the time of such disallowance, it shall cease to have any force or effect at the time limited in the notice of such disallowance, saving in so far as any penalty may have been then already incurred under the same.

[*Ss.* **10–12** *rep.* 34 *&* 35 *Vict. c.* 78, *s.* 17.]

13. Punishment of Servants of Railway Companies guilty of Misconduct.—It shall be lawful for any officer or agent of any railway company, or for any special constable duly appointed, and all such persons as they may call to their assistance, to seize and detain any engine driver, guard, porter, or other servant in the employ of such company, who shall be found drunk while employed upon the railway, or commit any offence against any of the byelaws, rules, or regulations of such company, or shall wilfully, maliciously, or negligently do or omit to do any act whereby the life or limb of any person passing along or being upon the railway belonging to such company, or the works thereof respectively, shall be or might be injured or endangered, or whereby the passage of any of the engines, carriages, or trains shall be or might be obstructed or impeded, and to convey such engine driver, guard, porter, or other servant so offending, or any person counselling, aiding, or assisting in such offence, with all convenient despatch, before some justice of the peace for the place within which such offence shall be committed, without any other warrant or authority than this Act; and every such person so offending, and every person counselling, aiding, or assisting therein as aforesaid, shall, when convicted before such justice as aforesaid, (who is hereby authorized and required, upon complaint to him made upon oath, without information in writing, to take cognizance thereof, and to act summarily in the premises,) in the discretion of such justice, be imprisoned, with or without hard labour, for any term not exceeding two calendar months, or, in the like discretion of such justice, shall for every such offence forfeit to her Majesty any sum not exceeding ten pounds, and in default of payment thereof shall be imprisoned, with or without hard labour as aforesaid, . . .

S. 13 *in part rep.* 55 *&* 56 *Vict. c.* 19 (*S.L.R.*).

14. Justice of the Peace may send any case to be tried by the Quarter Sessions.—Provided always, that (if upon the hearing of any such complaint he shall

think fit) it shall be lawful for such justice, instead of deciding upon the matter of complaint summarily, to commit the person or persons charged with such offence for trial for the same at the quarter sessions for the county or place wherein such offence shall have been committed and to order that any such person so committed shall be imprisoned and detained in any of her Majesty's gaols or houses of correction in the said county or place in the meantime, or to take bail for his appearance, with or without sureties, in his discretion; and every such person so offending, and convicted before such court of quarter sessions as aforesaid (which said court is hereby required to take cognizance of and hear and determine such complaint), shall be liable, in the discretion of such court, to be imprisoned, with or without hard labour, for any term not exceeding two years.

[*S.* **15** *rep.* 34 *&* 35 *Vict. c.* 78, *s.* 17.]

16. Punishment of persons obstructing the Officers of any Railway Company, or trespassing upon any Railway.—If any person shall wilfully obstruct or impede any officer or agent of any railway company in the execution of his duty upon any railway, or upon or in any of the stations or other works or premises connected therewith, or if any person shall wilfully trespass upon any railway, or any of the stations or other works or premises connected therewith, and shall refuse to quit the same upon request to him made by any officer or agent of the said company, every such person so offending, and all others aiding or assisting therein, shall and may be seized and detained by any such officer or agent, or any person whom he may call to his assistance, until such offender or offenders can be conveniently taken before some justice of the peace for the county or place wherein such offence shall be committed, and when convicted before such justice as aforesaid, (who is hereby authorized and required, upon complaint to him upon oath, to take cognizance thereof, and to act summarily in the premises,) shall, in the discretion of such justice, forfeit to her Majesty any sum not exceeding five pounds, and in default of payment thereof shall or may be imprisoned. . . . . .

S. 16 *in part rep.* 55 *&* 56 *Vict. c.* 19 (*S.L.R.*).

17. Proceedings not to be quashed for want of form, or removed into the Superior Courts.—No proceeding to be had and taken in pursuance of this Act shall be quashed or vacated for want of form, or be removed by certiorari, or by any other writ or process whatsoever, into any of her Majesty's courts of record at Westminster or elsewhere, any law or statute to the contrary notwithstanding.

18. Enactments empowering two Justices to decide Disputes respecting the proper places for Openings in the Ledges or Flanches of Railways repealed.—And whereas many railway companies are bound by the provisions of the Acts of Parliament by which they are incorporated or regulated, to make, at the expence of the owner or occupier of lands adjoining the railway, openings in the ledges or flanches thereof (except at certain places on such railway in the said Acts specified), for effecting communications between such railway and any collateral or branch railway to be laid down over such lands; and any disagreement or difference which shall arise as to the proper places for making any such openings in the ledges or flanches is by such Acts directed to be referred to the decision of any two justices of the peace within their respective jurisdictions: And whereas it is expedient that so much of every clause, provision, and enactment in any Act of Parliament heretofore passed, as gives to any justice or justices the power of hearing or deciding upon any such disagreement or difference as to the proper places for any such openings in the ledges or flanches of any railway, should be repealed: Be it therefore enacted, that so much of every such clause, provision, and enactment as aforesaid shall be repealed.

19. Board of Trade to determine such Disputes in future.—In case any disagreement or difference shall arise between any such owner or occupier, or other persons, and any railway company, as to the proper places for any such openings in the ledges or flanches of any railway (except at such places as aforesaid), for the purpose of such communication, then the same shall be left to the decision of the lords of the said committee, who are hereby empowered to hear and determine the same in such way as they shall think fit, and their determination shall be binding on all parties.

[*S.* **20** *rep.* 34 *&* 35 *Vict. c.* 78, *s.* 17.]

21. MEANING OF THE WORDS "RAILWAY" AND "COMPANY."—Wherever the word "railway" is used in this Act it shall be construed to extend to all railways constructed under the powers of any Act of Parliament, and intended for the conveyance of passengers in or upon carriages drawn or impelled by the power of steam or by any other mechanical power; and wherever the word "company" is used in this Act, it shall be construed to extend to and include the proprietors for the time being of any such railway, whether a body corporate or individuals, and their lessees, executors, administrators, and assigns, unless the subject or context be repugnant to such construction.

[*S.* **22** *rep.* 34 *&* 35 *Vict. c.* 78, *s.* 17.]

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4 & 5 VICTORIA, 1841.

CHAPTER XIV.

THE TRADING PARTNERSHIPS ACT, 1841 (*Short Titles Act*, 1896).

AN ACT to make good certain contracts which have been or may be entered into by certain Banking and other Copartnerships. [18th May 1841.]

Whereas divers associations and copartnerships consisting of more than six members or shareholders have from time to time been formed, for the purpose of being engaged in and carrying on the business of banking, and divers other trades and dealings, for gain and profit, and have accordingly for some time past been and are now engaged in carrying on the same, by means of boards of directors or managers, committees, or other officers acting on behalf of all the members or shareholders of or persons otherwise interested in such associations or copartnerships: And whereas divers spiritual persons having or holding dignities, prebends, canonries, benefices, stipendiary curacies, or lectureships, have been members or shareholders of or otherwise interested in divers of such associations and copartnerships: . . . . . .

Preamble in part rep. 53 *&* 54 *Vict. c.* 51 (*S.L.R.*).

1. NO ASSOCIATION OR COPARTNERSHIP OR CONTRACT ENTERED INTO BY ANY OF THEM, TO BE ILLEGAL OR VOID BY REASON ONLY OF SPIRITUAL PERSONS BEING MEMBERS THEREOF —NO SPIRITUAL PERSON BENEFICED OR PERFORMING ECCLESIASTICAL DUTY TO ACT AS A DIRECTOR, &c.—No such association or copartnership already formed, or which may be hereafter formed, nor any contract either as between the members, partners, or shareholders composing such association or copartnership for the purposes thereof, or as between such association or copartnership and other persons, heretofore entered into or which shall be entered into by any such association or copartnership already formed or hereafter to be formed, shall be deemed or taken to be illegal or void, or to occasion any forfeiture whatsoever, by reason only of any such spiritual person as aforesaid being or having been a member, partner, or shareholder of or otherwise interested in the same; but all such associations and copartnerships shall have the same validity, and all such contracts shall and may be enforced in the same manner, to all intents and purposes, as if no such spiritual person had been or was a member, partner, or shareholder of or interested in such association or copartnership: Provided always, that it shall not be lawful for any spiritual person holding any cathedral preferment, benefice, curacy, or lectureship, or who shall be licensed or allowed to perform the duties of any ecclesiastical office, to act as a director or managing partner, or to carry on such trade or dealing as aforesaid in person.

[*Ss.* **2, 3** *rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*).]

CHAPTER XX.

THE EXCISE MANAGEMENT ACT, 1841 (*Short Titles Act*, 1896).

AN ACT to alter and amend certain Laws relating to the Collection and Management of the Duties of Excise. [18th May 1841.]

[*Preamble recites* 7 *&* 8 *Geo.* 4, *c.* 53; 4 *&* 5 *Will.* 4, *c.* 51.]

[*S.* **1** *rep.* 53 *&* 54 *Vict. c.* 21, *s.* 40.]

2. ACTS REQUIRED TO BE DONE BY SURVEYORS OR GENERAL SURVEYORS WITHIN THE LIMITS OF THE CHIEF OFFICE OF EXCISE MAY BE DONE BY COLLECTORS OR SUPERVISORS, &C. Any survey, inspection, charge, return, or demand directed by any Act or Acts relating to the revenue of excise to be made, or any act or matter so directed or required to be done by any surveyor or general surveyor of excise within the limits of the chief office of excise, may be made or done by any collector or supervisor of excise within the said limits; and every collector, supervisor, and other officer appointed within the said limits shall have and exercise (subject to the orders and directions of the commissioners of excise) all the same powers and authorities in charging, collecting, receiving, paying, and securing the revenue of excise within the said limits, as are given to and are exercised by any collector, supervisor, or officer of excise elsewhere.

[*Ss.* **3, 4** *rep.* 53 *&* 54 *Vict. c.* 21, *s.* 40.]

5. ALL VESSELS, &C. NOT DULY ENTERED, AND ALL GOODS FOUND IN UNENTERED VESSELS OR PREMISES SHALL BE FORFEITED.—[*Recital*] All stills, backs, vats, coppers, presses, machines, and vessels and utensils, of which entry is by any law or laws of excise required to be made, and which shall not be duly and lawfully entered, and all goods and commodities found in any such unentered still, back, vat, copper, press, machine, or vessel or utensil, or in any house, warehouse, storehouse, room, or place required to be entered, and not duly and lawfully entered, shall be forfeited.

[*S.* **6** *rep.* 61 *&* 62 *Vict. c.* 46, *s.* 15.]

7. MARRIED WOMEN, WHOSE HUSBANDS MAY BECOME INSANE OR INCAPABLE OF TRANSACTING THEIR OWN AFFAIRS, OR WHO MAY BE SEPARATED FROM THEM AND OUT OF THE KINGDOM, MAY, WITH CONSENT OF THE COMMISSIONERS OF EXCISE, MAKE ENTRY OF PREMISES, &C.—It shall be lawful for any married woman whose husband shall become insane or idiot, or be otherwise rendered incapable of transacting his affairs, or whose husband shall be separated from her and be out of the limits of the United Kingdom, to make entry, with the consent and approbation of the commissioners of excise, of any building, place, vessel or utensil, for the carrying on of any trade or business in respect of which any entry is required by any law or laws relating to the revenue of excise; and every married woman so making entry shall be subject and liable to all duties, penalties, and forfeitures imposed by any Act relating to the revenue of excise, and to the trade or business in respect of which such entry shall be made; and any bond required by any Act or Acts relating to the revenue of excise, which shall be entered into by any such married woman, shall be good, valid, and effectual, notwithstanding her coverture, as if she was sole and unmarried: Provided always, that it shall not be necessary or required, on the trial or hearing of any information or proceeding against any such married woman for the recovery of any duty or penalty or forfeiture, or upon any such bond, to prove or give evidence of the insanity, idiotcy, or incapacity of or separation from or absence of the husband.

[*Ss.* **8–14, 22, 23** *rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*). *Ss.* **15–21** *rep.* 53 *&* 54 *Vict. c.* 21, *s.* 40.]

24. ALL GOODS SUBJECT TO DUTIES OF EXCISE, AND ALL MATERIALS, MACHINERY, VESSELS, AND IMPLEMENTS USED IN THE MANUFACTURE, SHALL BE LIABLE FOR ALL DUTIES CHARGEABLE AND PENALTIES INCURRED WHILST IN THE POSSESSION OF THE TRADER, AND MAY BE SEIZED, &C.—All goods and commodities, for or in respect of which any duty of excise is or shall be by law imposed, and all materials and preparations from which any

such goods are made, and all stills, backs, vats, coppers, cisterns, tables, presses, machines and machinery, vessels, utensils, implements, and articles for making or manufacturing or producing any such goods and commodities, or preparing any materials, or by which the trade or business in respect of which the duty is or shall be imposed shall have been or shall be carried on, in the custody or possession of the person carrying on such trade or business, or in the custody or possession of any factor, agent, or other person in trust for or for the use of the person carrying on such trade or business, shall be and remain subject and liable to, and the same are hereby made chargeable with, all the duties of excise which, during the time of any such custody or possession, shall be or shall have been charged or become chargeable on or be in arrear or owing from or by the person carrying on such trade or business; and shall also be and remain subject and liable to all penalties and forfeitures which during any such custody or possession shall be or shall have been incurred by the person carrying on such trade or business for any offence by such person committed against any Act or Acts relating to the revenue of excise; and all such goods, materials, and preparations, stills, backs, vats, coppers, tables, presses, machines, machinery, vessels, utensils, and articles shall be and remain subject and liable to all such duties, penalties, and forfeitures, by whomsoever and by whatsoever title or conveyance the same may be claimed; and it shall be lawful to levy thereon such duties, penalties, and forfeitures, and for that purpose to seize, take, sell, remove, and dispose of the same as the goods and chattels of the debtors or offenders under any writ or writs of extent, execution, or other process or warrant for the recovery or enforcement of any such duties, penalties, and forfeitures: Provided always, that where any goods or commodities subject to any duty of excise shall have been taken account of and duly charged with duty by the proper officer of excise, and shall, after having been so taken account of and charged with duty, be fairly and bonâ fide, and in the regular and ordinary course of trade, sold, disposed of, and delivered into the possession of the purchaser thereof, for a full and valuable consideration, before the teste or issuing of any process or warrant for the recovery of any duty or penalty, such goods and commodities in the possession of such fair and bonâ fide purchaser shall be discharged from such liability as aforesaid; but in all cases where any goods or commodities shall be seized in the custody or possession of any person, and shall be claimed to be discharged from such liability, as having been fairly and in the regular and ordinary course of trade purchased, proof of the fairness and bonâ fides of the purchase, and of the same having been in the regular and ordinary course of trade, and of the sale and delivery having been made before the teste or issuing of the process or warrant under which such goods or commodities shall be seized, shall lie on the claimer thereof.

[*S.* **25** *rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*). *Ss.* **26–29** *rep.* 53 *&* 54 *Vict. c.* 21, *s.* 40. *S.* **26** *provided that persons aggrieved by judgment of commissioners of excise might appeal to the Court of Exchequer.*]

30. Seven clear days notice of the hearing of an Appeal to be given to the Respondent.—The notice of the time and place when and where any appeal to the barons of her Majesty's Court of Exchequer, or to the justices assembled at the quarter sessions of the peace, is to be heard, shall be given on the part of the appellant to or left at the place of abode of the respondent seven clear days at least before such appeal is to be heard and determined.

31. Summonses, &c. may be served by Officers of Excise, &c.—Any summons, notice, order, or other proceeding issued on any information exhibited before the commissioners of excise, or any justice or justices, for the recovery of any penalty or the enforcing of any forfeiture incurred or to be recovered or enforced under any law or laws of excise, or on any appeal against any judgment of the commissioners of excise, or any justice or justices of the peace, on any such information, may be served by any officer of excise or other person; and such service shall be good and legal service, any thing in any Act or Acts to the contrary notwithstanding.

[*Ss.* **32–34** *rep.* 53 *&* 54 *Vict. c.* 21, *s.* 40. *S.* **35** *rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*).]

CHAPTER XXII.

THE FELONY ACT, 1841 (*Short Titles Act*, 1896).

AN ACT to remove Doubts as to the Liability of Lords and Peers of Parliament to Punishment in certain Cases of Felony. [21st June 1841.]

[*Preamble.*]

1. PEERS INDICTED FOR FELONY SHALL PLEAD, AND, ON CONVICTION, BE PUNISHED AS OTHER SUBJECTS.— . . . Every lord of Parliament or peer of this realm having place and voice in Parliament, against whom any indictment for felony may be found, shall plead to such indictment, and shall upon conviction be liable to the same punishment as any other of her Majesty's subjects are or may be liable upon conviction for such felony, any law or usage to the contrary in anywise notwithstanding.

S. 1 *in part rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*).

CHAPTER XXX.

THE ORDNANCE SURVEY ACT, 1841 (*Short Titles Act*, 1896).

AN ACT to authorize and facilitate the Completion of a Survey of Great Britain, Berwick upon Tweed, and the Isle of Man.[1] [21st June 1841.]

[1] *Continued annually by the Expiring Laws Continuance Acts.*

[*Preamble recites that it is expedient that general surveys and maps should be made by officers appointed by the master general and board of ordnance.*]

1. JUSTICES AT QUARTER SESSIONS TO APPOINT PERSONS TO ASSIST IN ASCERTAINING THE BOUNDARIES OF COUNTIES, CITIES, BOROUGHS, &C.—PERSONS PRODUCING FABRICATED APPOINTMENTS TO FORFEIT L.50.—For the purpose of enabling the master general and board of ordnance to make and complete such surveys and maps of England, Scotland, Berwick upon Tweed, and the Isle of Man, in manner aforesaid, it shall and may be lawful for the justices assembled at any quarter sessions, or adjournment thereof, held in and for any county, riding, or division in England, Scotland, Berwick upon Tweed, and the Isle of Man, upon the application in writing of any officer appointed by the master general and board of ordnance for the purposes of this Act, such application to be transmitted to the clerk of the peace fourteen days at the least before the holding of the court at which such application shall be considered, who shall cause notice of such application to be inserted in the newspapers in which county advertisements are commonly inserted seven days at the least before the holding of such court, to nominate and appoint one or more fit and proper person or persons to aid and assist, when required, any officer appointed as aforesaid in examining, ascertaining, and marking out the reputed boundaries of each county, city, borough, town, parish, burghs royal, parliamentary burghs, burghs of regality and barony, extra-parochial and other places, districts, and divisions, in England, Scotland, Berwick upon Tweed, and the Isle of Man; and such person shall from time to time act under and obey such directions as he shall receive from the officer or other person appointed by the master general and board of ordnance to make such surveys and maps as aforesaid: Provided always, that if any person shall produce any false, forged, untrue, or fabricated appointment, every such person shall forfeit and pay the sum of fifty pounds.

2. PERSONS APPOINTED, &C. MAY ENTER LANDS TO CARRY ON SURVEY, &C.—WHERE IT IS NECESSARY TO FIX ANY MARK IN ANY GARDEN, &C. NOTICE SHALL BE GIVEN AND THE OCCUPIER MAY EMPLOY A PERSON TO FIX IT—SATISFACTION TO BE MADE FOR DAMAGES—DISPUTES TO BE DECIDED AT PETTY SESSIONS—APPEAL TO QUARTER SESSIONS.—For the execution of the purposes of this Act it shall and may be lawful for any person appointed by the justices as aforesaid, and for any other person acting in aid and under the orders

of such person, and for any officer or person appointed by or acting under the orders of the master general and board of ordnance, and they are hereby respectively authorized and empowered, from time to time, after notice in writing of the intention of entering shall have been given to the owner or occupier, as the case may be, to enter into and upon any estate or property of any county, or of any body politic or corporate, ecclesiastical or civil, or into and upon any land, ground, or heritages of any person or persons whomsoever, for the purpose of making and carrying on any survey authorized by this Act, or by the order of the master general and board of ordnance, and for the purpose of fixing any mark or object to be used in the survey, or any post, stone, or boundary mark whatsoever, and to fix and place any such object, post, stone, or boundary mark in any such estate or property, land or ground, or heritages, and to dig up any ground, for the purpose of fixing any such object, post, stone, or boundary mark, for such object or purpose, and also to enter upon any estates or property, lands, grounds or heritages, through which any such person appointed by the justices as aforesaid, and any officer or other person appointed by and acting under the orders of the master general and board of ordnance, shall deem it necessary and proper to carry any boundary line for the purposes of this Act at any reasonable time in the day, until the surveying, ascertaining, and marking out of any reputed boundary line shall be completed according to the directions of this Act: Provided always, that in every case in which it shall be necessary to any person appointed by the justices as aforesaid, for any officer or other person appointed by and acting under the orders of the master general and board of ordnance, or his or their assistant or assistants, to fix any such object, post, stone, or boundary mark within any walled garden, orchard, or pleasure ground, such person appointed by the justices aforesaid, or any officer or other person appointed by and acting under the orders of the master general and board of ordnance, or his or their assistant or assistants, shall give three days notice to the occupier of such garden, orchard, or pleasure ground, of his intention so to do, and it shall be lawful for such occupier to employ any person whom he may think fit, to fix such object, post, stone, or boundary mark within such garden, orchard, or pleasure ground, at such time, in such place or places, and in such manner, as such person appointed by the justices as aforesaid or any officer or other person appointed by and acting under the orders of the master general and board of ordnance or his or their assistant or assistants shall direct: Provided also, that such person appointed by the justices as aforesaid or any officer or other person appointed by and acting under the orders of the master general and board of ordnance, or his or their assistant or assistants and workmen shall do as little damage as may be in the execution of the several powers to them granted by this Act, and shall make satisfaction to the owners or occupiers (as the case may require) of such lands, grounds, and heritages, or owners of trees (as the case may require), which shall be any way hurt, damaged, or injured, for all damages to be by them sustained in or by the execution of all or any powers of this Act, in case the same shall be demanded: Provided always, that in case of dispute between the said person appointed by the justices as aforesaid or any officer or other person appointed by and acting under the orders of the master general and board of ordnance on the one hand, and the owner or occupier (as the case may be) on the other hand, as to the amount of damage sustained, the same shall be ascertained and determined by any two or more justices in petty sessions assembled of the county in which the lands, grounds, heritages, or trees may be situate: Provided always, that any owner or occupier as aforesaid, who shall think himself aggrieved by the decision of the justices, may appeal against such decision to the justices of the said county in quarter sessions assembled, who shall hear and determine such appeal, and shall increase or diminish the amount of damages awarded by the justices in petty sessions, and shall award costs for or against the appellant, as the justice of the case shall seem to them to require: Provided always, that such appeal shall be prosecuted at such quarter sessions as shall be holden not less than twenty-one days nor more than four calendar months after the decision of the justices in petty sessions: Provided further, that any person so appealing shall give notice to the clerk of the said justices in petty sessions, within seven days of their decision, of his intention to appeal against their decision, and shall enter into sufficient recognizance to prosecute such appeal.

3. Sheriffs in Scotland to settle the amount of Compensation.—The amount of the damages for which compensation is provided under this Act shall, in Scotland, be ascertained and determined by the sheriff of the county, whose decision in the matter

shall be final and conclusive, and not subject to review, by suspension, advocation, reduction, or otherwise.

4. Clerk of the Peace of each County shall deliver to Surveyor a List of all the Cities, Towns, Boroughs, Parishes, &c. within the County, on Penalty of L.10.—The clerk of the peace of each and every county shall within twenty-one days after he shall be thereunto required in writing by any person appointed by the justices as aforesaid, or by any officer or other person appointed by and acting under the master general and board of ordnance, prepare and deliver to such person appointed by such justices as aforesaid, or any officer or other person appointed by and acting under the orders of the master general and board of ordnance, a list containing the names and descriptions of the several hundreds, cities, boroughs, burghs, towns, parishes, or other places within such county; and each such clerk of the peace shall be paid by the said board adequate remuneration for his trouble, and for any expences incurred by him in pursuance of such requisition; and if any clerk of the peace shall refuse or neglect or omit to make or deliver such list, in compliance with the request of such surveyor, every such clerk of the peace so offending shall forfeit a sum not exceeding ten pounds and not less than two pounds, in the discretion of the justice or other judge, officer, or court before whom such offender shall be convicted.

5. Clerk of the Peace shall attend Surveyor on twenty-one days notice, &c.—On failure of Clerk of the Peace attending, two Inhabitants may be required to attend.—For the purpose of surveying, ascertaining, and marking out the reputed boundaries of any such county, it shall be lawful for any such person appointed by such justices as aforesaid, or any officer or other person appointed by and acting under the orders of the master general and board of ordnance within such county, and such person appointed by such justices as aforesaid, or any officer or other person appointed by and acting under the orders of the master general and board of ordnance, is hereby authorized and empowered, by notice in writing signed with his name, and directed and delivered to any such clerk of the peace, to require the attendance of any and every such clerk of the peace in or for any and every such county, or in or for any adjoining county, either in the same or any adjoining county, at such time (not being less than twenty-one days after the date of such notice) and at such place as shall be specified in such notice, and to produce to such person appointed by such justices as aforesaid, or such officer or other person appointed by and acting under the master general and board of ordnance, any books, maps, papers, or other documents, in his custody or possession as such clerk of the peace, which such person may require for the purpose of carrying this Act into execution; at which time and place every such clerk of the peace shall and he is hereby required to attend upon such person accordingly, and to aid and assist such person appointed by such justices as aforesaid, or any officer or other person appointed by and acting under the orders of the master general and board of ordnance, in the execution of this Act; and in case it shall happen that there shall not be any clerk of the peace for any such county or adjoining county, or, being such, any such officer shall omit or neglect to attend at the time and place mentioned in any such notice, then and in such case it shall be lawful for any such person appointed by such justices as aforesaid, or any officer or other person appointed by and acting under the orders of the master general and board of ordnance, by like notice, to require any two or more inhabitants of any such county to attend in the place and stead of such clerk of the peace; and every such inhabitant to whom any such notice shall be directed and delivered shall and he and they is and are hereby required to attend upon such person appointed by such justices as aforesaid, or any officer or other person appointed by and acting under the orders of the master general and board of ordnance, accordingly, and to assist such person appointed by such justices as aforesaid, or any officer or other person appointed by and acting under the orders of the master general and board of ordnance, in the execution of the purposes of this Act: Provided always, that no clerk of the peace shall be obliged to attend as herein directed at such time or at such place or in such manner as shall interfere with the proper discharge of his ordinary duties as clerk of the peace, nor shall he be called upon to produce any books, maps, papers, or other documents, the production of which can in any way injuriously affect the interests of each such county.

6. Boundaries of the Counties to be ascertained, &c. and marked out by Posts, Stones, &c.—It shall be lawful for any such person appointed by such justices as afore-

said, or any officer or other person appointed by and acting under the orders of the master general and board of ordnance, at the time mentioned in any such notice, accompanied by the clerk of the peace for the county the reputed boundaries of which are to be defined and marked out, and by the clerk of the peace of any county adjoining thereto, or by such inhabitants as aforesaid, and such person appointed by such justices as aforesaid, or any officer or other person appointed by and acting under the orders of the master general and board of ordnance, clerk of the peace, and other persons, is and are hereby authorized and required to perambulate the boundaries of such county, for the purpose of surveying, ascertaining, and marking the same, according to the best of their power and information; and for that purpose it shall be lawful for such person appointed by such justices as aforesaid, or any officer or other person appointed by and acting under the orders of the master general and board of ordnance, clerk of the peace, and other persons, to call on any inhabitant of any such counties to assist them in so doing; and when it shall appear to such person appointed by such justices as aforesaid, or any officer or other person appointed by and acting under the orders of the master general and board of ordnance, that the reputed boundaries of any such county are sufficiently ascertained, such boundaries shall be marked out by such person appointed by such justices as aforesaid, or any officer or other person appointed by and acting under the orders of the master general and board of ordnance, in such manner as may be necessary, by the putting down of any posts, blocks, or bolts of wood, metal, or stone, or by the affixing of any marks on or against any church, chapel, bridge, house, or other public or private building or post, and with such distinguishing letters or figures as such person appointed by such justices as aforesaid, or any officer or other person appointed by and acting under the orders of the master general and board of ordnance, shall think fit and proper for the occasion.

7. Penalty on removing or defacing Boundary Stones, &c.—If any person not duly authorized shall take away, remove, or displace, or alter the situation of any boundary stone, post, block, bolt, or mark, which shall be set up and placed for the purposes of this Act, or shall wilfully deface, mutilate, break, or destroy any such boundary stone, post, block, bolt, or mark, every person so offending shall forfeit and pay a sum not exceeding ten pounds, ...

S. 7 *in part rep.* 55 *&* 56 *Vict. c.* 19 (*S.L.R.*).

8. Penalty on obstructing Survey, &c.—If any person shall wilfully obstruct or hinder any person appointed by such justices as aforesaid, or any officer or other person appointed by and acting under the orders of the master general and board of ordnance, in the execution of his duty in or about the ascertaining and marking out of the boundaries of any county under the provisions of this Act, or shall in any way resist such person appointed by such justices as aforesaid, or any officer or other person appointed by and acting under the orders of the master general and board of ordnance, in the performance of his duty under this Act, or shall obstruct, hinder, assault, or resist any clerk of the peace, or any workman or other person acting in aid of any such person appointed by such justices as aforesaid, or any officer or other person appointed by and acting under the orders of the master general and board of ordnance, in the execution of this Act, every person so offending shall forfeit and pay a sum not exceeding ten pounds, ...

S. 8 *in part rep.* 55 *&* 56 *Vict. c.* 19 (*S.L.R.*).

9. Allowance to Parties, &c. attending to point out Boundaries.—Every person who shall, in pursuance of notice from any person appointed by such justices as aforesaid or any officer or other person appointed by and acting under the orders of the master general and board of ordnance, attend and accompany any other person appointed by such justices as aforesaid, or any officer or such person appointed by and acting under the orders of the master general and board of ordnance, in the ascertaining, surveying, and marking out the boundary of any county under the provisions of this Act, shall receive, and shall be entitled to receive, for his trouble and loss of time, such sum of money or allowance as the master general and board of ordnance shall think fit, for every day during which such person shall be employed by or engaged with such person appointed by such justices as aforesaid, or any officer or other person appointed by and acting under the orders of the master general and board of ordnance, in the execution

of this Act, upon a certificate to be signed by such person appointed by such justices as aforesaid, or any officer or other person appointed by and acting under the orders of the master general and board of ordnance.

10. Payments for Damage, how to be made.—The amount of damage sustained by the occupiers of grounds, lands, heritages, or owners of trees, as aforesaid, and the allowance to be made to the said person appointed by such justices as aforesaid, or any officer or other person appointed by and acting under the orders of the master general and board of ordnance, and to such other persons as aforesaid, shall be paid by the board of ordnance out of the aids granted to such board by Parliament.

11. Penalty on Parties, &c. not attending, or not pointing out Boundaries, &c.—If any clerk of the peace, or other person, who shall be summoned or required in manner herein-before directed, by any person appointed by such justices as aforesaid, or any officer or other person appointed by and acting under the orders of the master general and board of ordnance, to attend such person appointed by such justices as aforesaid, or any officer or other person appointed by and acting under the orders of the master general and board of ordnance, in the execution of this Act, shall refuse or neglect or omit to attend such person appointed by such justices as aforesaid, or any officer or other person appointed by and acting under the orders of the master general and board of ordnance, or shall refuse or neglect or omit to inform and point out, to the best of his knowledge, to such person appointed by such justices as aforesaid, or any officer or other person appointed by and acting under the orders of the master general and board of ordnance, the boundaries of any county, or shall wilfully make any false statement or mis-statement with respect to any such boundaries, or shall wilfully refuse or neglect or omit to give any information in the power of such clerk of the peace or other person to give or afford with respect to any such boundaries, every such clerk of the peace or other person so offending shall forfeit and pay a sum not exceeding ten pounds, . . .

S. 11 *in part rep.* 55 *&* 56 *Vict. c.* 19 (*S.L.R.*).

12. Act not to affect any Boundaries or Rights of Property.—This present Act, or any clause, matter, or thing herein contained, shall not extend, or be deemed or be construed to extend, to ascertain, define, alter, enlarge, increase or decrease, nor in any way to affect, any boundary or boundaries of any county, city, borough, town, parish, burghs royal, parliamentary burghs, burghs of regality and baronry, extra-parochial and other places, districts, and divisions, by whatsoever denomination the same shall be respectively known or called, nor the boundary or boundaries of any land or property, with relation to any owner or owners, or claimant or claimants of any such land respectively, nor to affect the title of any such owner or owners, or claimant or claimants respectively, in or to or with respect to any such lands or property, but all right and title of any owner or claimant of any land or property whatever within any hundred, parish, or other division or place whatever, shall remain to all intents and purposes in like state and condition as if this Act had not been passed; any description of any such land, with reference to any such hundred, parish, or other division or place whatever, or otherwise, or anything in this Act contained, or any law, custom, or usage, to the contrary in anywise notwithstanding.

13. Recovery and Application of Penalties.—All penalties and forfeitures inflicted or imposed by this Act shall and may be recovered in a summary way by the order and adjudication of any two justices of the peace for the county or place, or of the sheriff or court of deemsters, in which such penalty shall be incurred, on complaint; . . . and such penalties and forfeitures, when so levied, shall be paid and applied to the use of any infirmary or charitable institution in the said county in which such offence shall be committed, in such manner as such justices, sheriff, or deemsters respectively shall direct and appoint.

S. 13 *in part rep.* 55 *&* 56 *Vict. c.* 19 (*S.L.R.*).

[*S.* **14** *rep.* 56 *&* 57 *Vict. c.* 61.]

15. Interpretation Clause.—In construing this Act the word "county" shall be taken to include hundred, city, borough, town, parish, burghs royal, parliamentary burghs, burghs of regality and baronry, extra-parochial and other places, districts, and divisions, by whatsoever denomination the same respectively shall be known or called; and the words "clerk of the peace" shall be taken to include any person executing the duties of

clerk of the peace, sheriff clerk, sheriff clerk depute, and stewart clerk depute, churchwarden, parochial or any public officer of any county, ward, parish, hundred, wapentake, division, or districts, in England, Scotland, or Berwick upon Tweed, and setting quest and moars of any parish and the great inquest of every sheading in the Isle of Man; and every word importing the singular number shall, when necessary to give full effect to the enactments herein contained, be deemed to extend and be applied to several persons or things as well as one person or thing; and every word importing the masculine gender shall, when necessary, extend and be applied to a female as well as a male.

16. Sheriff Clerk in Scotland to furnish Lists of Burghs, &c.—In Scotland the sheriff clerk shall, instead of the clerk of the peace, perform the duties hereby imposed upon the clerk of the peace in reference to England of furnishing the list of burghs, cities, towns, parishes, wards, districts, divisions, and places within any county, and shall be liable in the penalties hereby imposed in case of neglect or refusal so to do.

17. Sheriffs and Magistrates of Burghs in Scotland to appoint persons to attend the Surveyor.—In Scotland the sheriff shall, as regards the boundaries of the county, and the wards, districts, parishes, and other divisions thereof, upon application made to him by the officer appointed by the master general and board of ordnance for that purpose, appoint a fit and proper person or persons to attend the officer appointed by the master general and board of ordnance, to point out such boundaries, and aid him in the execution of this Act: Provided always, that as regards the boundaries of any royal or parliamentary burgh, city, or town, the magistrates and council thereof shall, upon application made to them by the officer appointed by the master general and board of ordnance as aforesaid, appoint a fit and proper person or persons to attend him for the purposes aforesaid; and if any of the persons to be so appointed by the sheriff and magistrates and council respectively, and accepting the appointment, shall neglect or refuse to attend and aid in the execution of this Act in the manner herein required, such persons shall be liable in the penalties hereby imposed upon the clerk of the peace or other person neglecting or refusing so to do in England.

[*Ss.* **18, 19** *rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*).]

CHAPTER XXXVIII.

The Schools Sites Act, 1841 (*Short Titles Act*, 1896).

An Act to afford further Facilities for the Conveyance and Endowment of Sites for Schools.[1] [21st June 1841.]

[1] *The powers and duties of a Secretary of State under this Act, as to Scotland, are transferred to the Secretary for Scotland*, 48 *&* 49 *Vict. c.* 61, *s.* 5.

[*Preamble.*]

[*S.* **1** (*repealing* 6 *&* 7 *Will.* 4, *c.* 70) *rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*).]

2. Limited Owners may convey Land to be used as Sites for Schools, &c.—Land to revert on ceasing to be used for a School.—Any person, being seised in fee simple, fee tail, or for life, of and in any manor or lands of freehold, copyhold, or customary tenure, and having the beneficial interest therein, or in Scotland being the proprietor in fee simple or under entail, and in possession for the time being, may grant, convey, or enfranchise by way of gift, sale, or exchange, in fee simple or for a term of years, any quantity not exceeding one acre of such land, as a site for a school for the education of poor persons, or for the residence of the schoolmaster or schoolmistress, or otherwise for the purposes of the education of such poor persons in religious and useful knowledge; provided that no such grant made by any person seised only for life of and in any such manor or lands shall be valid, unless the person next entitled to the same in remainder, in fee simple or fee tail, (if legally competent,) shall be a party to and join in such grant: Provided also, that where any portion of waste or commonable land shall be gratuitously conveyed by any lord or lady of a manor for any such purposes as aforesaid, the rights and interest of all persons in the said land shall be barred and

divested by such conveyance: Provided also, that upon the said land so granted as aforesaid, or any part thereof, ceasing to be used for the purposes in this Act mentioned, the same shall thereupon immediately revert to and become a portion of the said estate held in fee simple or otherwise, or of any manor or land as aforesaid, as fully to all intents and purposes as if this Act had not been passed, any thing herein contained to the contrary notwithstanding.

3. CHANCELLOR AND COUNCIL OF THE DUCHY OF LANCASTER MAY GRANT LANDS TO THE TRUSTEES OF ANY EXISTING OR INTENDED SCHOOL—IF LANDS CEASE TO BE USED FOR THE PURPOSES OF THE ACT THEY SHALL REVERT.—And whereas it may be expedient and proper that the chancellor and council of her Majesty's duchy of Lancaster, on her Majesty's behalf, should be authorized to grant, convey, or enfranchise, to or in favour of the trustee or trustees of any existing or intended school, lands and hereditaments belonging to her Majesty in right of her said duchy, for the purposes of this Act: Be it therefore enacted, that it shall and may be lawful for the chancellor and council of her Majesty's duchy of Lancaster for the time being, by any deed or writing under the hand and seal of the chancellor of the said duchy for the time being, attested by the clerk of the council of the said duchy for the time being, for and in the name of her Majesty, to grant, convey, or enfranchise, to or in favour of such trustee or trustees, any lands and hereditaments to be used by them for the purposes of this Act, upon such terms and conditions as to the said chancellor and council shall seem meet; and where any sum or sums of money shall be paid as or for the purchase or consideration for such lands or hereditaments so to be granted, conveyed, or enfranchised as aforesaid, the same shall be paid by such trustee or trustees into the hands of the receiver general for the time being of the said duchy, or his deputy, and shall be by him paid, applied, and disposed of according to the provisions and regulations contained in an Act passed in the forty-eighth year of the reign of his late Majesty King George the Third, intituled "An Act "to improve the land revenue of the crown in England, and also of his Majesty's "duchy of Lancaster," or any other Act or Acts now in force for that purpose: Provided always, that upon the said land so granted as aforesaid, or any part thereof, ceasing to be used for the purposes in this Act mentioned, the same shall thereupon immediately revert to and become again a portion of the possessions of the said duchy, as fully to all intents and purposes as if this Act or any such grant as aforesaid had not been passed or made; any thing herein contained to the contrary notwithstanding.

[*S.* **4** *rep.* 37 & 38 *Vict. c.* 96 (*S.L.R.*).]

5. PERSONS EQUITABLY ENTITLED OR UNDER DISABILITY MAY CONVEY LANDS FOR THE PURPOSES OF THIS ACT.—Where any person shall be equitably entitled to any manor or land, but the legal estate therein shall be in some trustee or trustees, it shall be sufficient for such person to convey the same for the purposes of this Act without the trustee or trustees being party to the conveyance thereof; and where any married woman shall be seised or possessed of or entitled to any estate or interest, manorial or otherwise, in land proposed to be conveyed for the purposes of this Act, she and her husband may convey the same for such purposes by deed, without any acknowledgment thereof; and where it is deemed expedient to purchase any land for the purposes aforesaid belonging to or vested in any infant or lunatic, such land may be conveyed by the guardian or committee of such infant, or the committee of such lunatic respectively, who may receive the purchase money for the same, and give valid and sufficient discharges to the party paying such purchase money, who shall not be required to see to the application thereof.

6. CORPORATIONS, JUSTICES, TRUSTEES, &C. MAY CONVEY LANDS FOR THE PURPOSES OF THIS ACT.—It shall be lawful for any corporation, ecclesiastical or lay, whether sole or aggregate, and for any officers, justices of the peace, trustees, or commissioners, holding land for public, ecclesiastical, parochial, charitable, or other purposes or objects, subject to the provisions next herein-after mentioned, to grant, convey, or enfranchise, for the purposes of this Act, such quantity of land as aforesaid in any manner vested in such corporation, officers, justices, trustees, or commissioners: Provided always, that no ecclesiastical corporation sole, being below the dignity of a bishop, shall be authorized to make such grant without the consent in writing of the bishop of the diocese to whose jurisdiction the said ecclesiastical corporation is subject: Provided also, that no parochial property shall be granted for such purposes without the consent of a majority of the rate-payers and owners of property in the parish to which the same belongs assembled at a

meeting to be convened according to the mode pointed out in the Act passed in the sixth year of the reign of his late Majesty, intituled "An Act to facilitate the convey- " ance of workhouses and other property of parishes and of incorporations or unions of " parishes in England and Wales," and without the consent of the poor law commissioners, to be testified by their seal being affixed to the deed of conveyance, and of the guardians of the poor of the union within which the said parish may be comprised, or of the guardians of the poor of the said parish where the administration of the relief of the poor therein shall be subject to a board of guardians, testified by such guardians being the parties to convey the same; provided also, that where any officers, trustees, or commissioners, other than parochial trustees, shall make any such grant, it shall be sufficient if a majority or quorum authorized to act of such officers, trustees, or commissioners, assembled at a meeting duly convened, shall assent to such grant, and shall execute the deed of conveyance, although they shall not constitute a majority of the actual body of such officers, trustees, or commissioners: Provided also, that the justices of the peace may give their consent to the making any grant of land or premises belonging to any county, riding, or division by vote at their general quarter sessions, and may direct the same to be made in the manner directed to be pursued on the sale of the sites of gaols by an Act[1] passed in the seventh year of the reign of his late Majesty George the Fourth, intituled "An Act to authorize the disposal of unnecessary prisons in " England."

[1] 7 *Geo.* 4, *c.* 18 *is rep.* 28 *&* 29 *Vict. c.* 126, *s.* 73, *but s.* 76 *provides that references to the repealed Act are to be construed as references to the corresponding provisions of the repealing Act.*

7. GRANTS OF LAND MAY BE MADE TO CORPORATIONS OR TRUSTEES, TO BE HELD BY THEM FOR SCHOOL PURPOSES.—All grants of land or buildings, or any interest therein, for the purposes of the education of poor persons, whether taking effect under the authority of this Act or any other authority of law, may be made to any corporation sole or aggregate, or to several corporations sole, or to any trustees whatsoever, to be held by such corporation or corporations or trustees for the purposes aforesaid: Provided nevertheless, that any such grant may be made to the minister of any parish being a corporation, and the churchwardens or chapelwardens and overseers of the poor, or to the minister and kirk session of the said parish, and their successors; and in such case the land or buildings so granted shall be vested for ever thereafter in the minister, churchwardens, or chapelwardens, and overseers of the poor for the time being, or the minister and kirk session of such parish, but the management, direction, and inspection of the school shall be and remain according to the provisions contained in the deed of conveyance thereof: Provided also, that where any ecclesiastical corporation sole below the dignity of a bishop shall grant any land to trustees, other than the minister, churchwardens, or chapelwardens, and overseers, for the purposes aforesaid, such trustees shall be nominated in writing by the bishop of the diocese to whose jurisdiction such corporation shall be subject; provided that where any school shall be intended for any ecclesiastical district not being a parish as herein-after defined, it shall be sufficient if the grant be made to the minister and church or chapel warden or wardens of the church or chapel of such district, and to hold to them and their successors in office; and such grant shall enure to vest the land, subject to the conditions contained in the deed of conveyance, in such minister and the church or chapel warden or wardens for the time being.

8. ESTATES NOW VESTED IN TRUSTEES FOR THE PURPOSES OF EDUCATION, AND NOT SUBJECT TO 3 & 4 VICT. C. 77, MAY BE CONVEYED TO THE MINISTER AND CHURCH-WARDENS.—And whereas schools for the education of the poor in the principles of the Established Church, or in religious and useful knowledge, and residences for the masters or mistresses of such schools, have been heretofore erected, and are vested in trustees not having a corporate character: Be it therefore enacted that it shall be lawful for the trustees for the time being of such last-mentioned schools and residences, not being subject to the provisions of the Act passed in the last session of Parliament, intituled "An Act for improving the conditions and extending the benefits of grammar " schools," to convey or assign the same, and all their estate and interest therein, to such ministers and churchwardens and overseers of the poor of the parish within which the same are respectively situate, and their successors as aforesaid, or, being situate within an ecclesiastical district not being a parish as herein after defined, then to the

minister and church or chapel wardens of the church or chapel of such district, and their successors, in whom the same shall thereafter remain vested accordingly, but subject to and under the existing trusts and provisions respectively affecting the same.

9. ANY NUMBER OF SITES MAY BE GRANTED BY ONE PERSON FOR SEPARATE SCHOOLS, &c.—Any person or persons or corporation may grant any number of sites for distinct and separate schools, and residences for the master or mistress thereof, although the aggregate quantity of land thereby granted by such person or persons or corporation shall exceed the extent of one acre; provided that the site of each school and residence do not exceed that extent: Provided also, that not more than one such site shall be in the same parish.

10. FORM OF GRANTS, &c.—All grants, conveyances, and assurances of any site for a school, or the residence of a schoolmaster or schoolmistress, under the provisions of this Act, in respect of any land, messuages, or buildings, may be made according to the form following, or as near thereto as the circumstances of the case will admit; (that is to say,)

'I [or we, or the corporate title of a corporation], under the authority of an Act 'passed in the year of the reign of her Majesty Queen Victoria, intituled '"An Act for affording further facilities for the conveyance and endowment of sites '"for schools," do hereby freely and voluntarily, and without any valuable consideration, '[or do, in consideration of the sum of to me or us or the said 'paid], grant, [alienate,] and convey to all [description of the premises,] 'and all [my or our or the right, title, and interest of the] to and in 'the same and every part thereof, to hold unto and to the use of the said 'and his or their [heirs, or executors, or administrators, or successors,] for the purposes 'of the said Act, and to be applied as a site for a school for poor persons of and in the 'parish of and for the residence of the schoolmaster [or school-'mistress] of the said school [or for other purposes of the said school,] and for no other 'purpose whatever; such school to be under the management and control of [set forth 'the mode in which and the persons by whom the school is to be managed, directed, 'and inspected.] [In case the school be conveyed to trustees, a clause providing for 'the renewal of the trustees, and in cases where the land is purchased, exchanged, or 'demised, usual covenants or obligations for title, may be added.] In witness whereof 'the conveying and other parties have hereunto set their hands and seals, this 'day of .

'Signed, sealed, and delivered by the said in the presence of 'of .'

And no bargain and sale or livery of seisin shall be requisite in any conveyance intended to take effect under the provisions of this Act, nor more than one witness to the execution by each party; and instead of such attestation such conveyance of any lands or heritages in Scotland shall be executed with a testing clause, according to the law and practice of Scotland; and, being recorded within sixty days of the date thereof in the general register of seisins or particular register for the county in which the lands or heritages lie, shall, without actual seisin, be valid and effectual in law to all intents and purposes, and shall be a complete bar to all other rights, titles, trusts, interests, and incumbrances, to, in, or upon the lands or heritages so conveyed.

11. APPLICATION OF PURCHASE MONEY FOR LAND SOLD BY ANY ECCLESIASTICAL CORPORATION SOLE.—Where any land shall be sold by any ecclesiastical corporation sole for the purposes of this Act, and the purchase money to be paid shall not exceed the sum of twenty pounds, the same may be retained by the party conveying, for his own benefit; but when it shall exceed the sum of twenty pounds, it shall be applied for the benefit of the said corporation, in such manner as the bishop in whose diocese such land shall be situated shall, by writing under his hand, to be registered in the registry of his diocese, direct and appoint; but no person purchasing such land for the purpose aforesaid shall be required to see to the due application of any such purchase money.

12. APPLICATION OF PURCHASE MONEY FOR LANDS SOLD BY INCAPACITATED PERSONS IN SCOTLAND.—The price of any lands or heritages to be sold for the purposes of this Act by any heir of entail or other incapacitated person or persons in Scotland shall be applied and invested in such and the like manner as is directed in relation to any monies awarded to be paid for lands or heritages belonging to heirs of entail or incapitated persons under an Act [1] passed in the first and second years of the reign of

his late Majesty King William the Fourth, intituled "An Act for amending and "making more effectual the laws concerning turnpike roads in Scotland."

[1] 1 & 2 *Will.* 4, c. 43, *is rep. by* 53 & 54 *Vict. c.* 51 (*S.L.R.*). *The enactments here referred to are printed at the end of this Act.*

13. Ecclesiastical Corporations sole to procure a Certificate as to the extent of the Land conveyed—Form of Certificate.—When any ecclesiastical corporation sole below the dignity of a bishop shall grant any land belonging to him in right of his corporation for the purposes of this Act, he shall procure a certificate, under the hands of three beneficed clergymen of the diocese within which the land to be conveyed shall be situate, as to the extent of the land so conveyed, to be endorsed on the said deed; which certificate shall be in the form following; (that is to say,)

'We, A.B. clerk, rector of the parish of , C.D. clerk, rector of the parish 'of , and E.F. clerk, vicar of the parish of , being three 'beneficed clergymen of the diocese of , do hereby certify, that 'clerk, rector of the parish of within the said diocese of , 'being about to convey a portion of land situate in the said parish of 'for the purposes of a school, under the powers of the Act passed in year 'of the reign of her Majesty Queen Victoria, intituled "An Act for affording further '"facilities for the conveyance and endowment of sites for schools," we have at his 'request inspected and examined the portion of land, and have ascertained that the 'same is situate at [here describe the situation], and that the extent thereof does not 'exceed acre . As witness our hands, this day of 'at in the county of and diocese of .

'Witness of .'

And until such certificate shall have been signed no such conveyance shall have any force or validity.

14. Trustees of Schools may sell or exchange Lands or Buildings.—When any land or building shall have been or shall be given or acquired under the provisions of the said first-recited Act or this Act, or shall be held in trust for the purposes aforesaid, and it shall be deemed advisable to sell or exchange the same for any other more convenient or eligible site, it shall be lawful for the trustees in whom the legal estate in the said land or building shall be vested, by the direction or with the consent of the managers and directors of the said school, if any such there be, to sell or exchange the said land or building, or part thereof, for other land or building suitable to the purposes of their trust, and to receive on any exchange any sum of money by way of effecting an equality of exchange, and to apply the money arising from such sale or given on such exchange in the purchase of another site, or in the improvement of other premises used or to be used for the purposes of such trust; provided that where the land shall have been given by any ecclesiastical corporation sole, the consent of the bishop of the diocese shall be required to be given to such sale or exchange before the same shall take place: Provided also, that where a portion of any parliamentary grant shall have been or shall be applied towards the erection of any school, no sale or exchange thereof shall take place without the consent of the secretary of state for the home department for the time being.

15. All Conveyances of Land under 6 & 7 Will. 4, c. 70, to be deemed effectual for vesting the Fee Simple.—[*Recital*] All conveyances whereby any land shall have been conveyed to the minister or incumbent and the churchwardens or chapelwardens of any parish or place for the time being, whether made to them as such minister or incumbent and churchwardens or chapelwardens, or to them and their successors, shall be deemed and taken to have been and shall be valid and effectual for the purpose of vesting the fee simple, or such other estate as hath been proposed to be conveyed, in the persons who from time to time shall be the minister or incumbent and the churchwardens or chapelwardens of such place, such minister being the rector, vicar, or perpetual curate, whether endowed or not, of the said parish or place.

[*S.* **16** *rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*).]

17. No Schoolmaster to acquire a Life Interest by virtue of his Appointment.—No schoolmaster or schoolmistress to be appointed to any school erected upon land conveyed under the powers of this Act shall be deemed to have acquired an interest for

life by virtue of such appointment, but shall, in default of any specific engagement, hold his office at the discretion of the trustees of the said school.

18. JUSTICES OF THE PEACE OR SHERIFFS TO GIVE POSSESSION OF SCHOOLROOMS, &C. IN CASE OF THE REFUSAL OF THE MASTER TO QUIT. —[*Recital*] When any master or mistress, not being the master or mistress of any grammar school within the provision of the Act of the last session of Parliament herein-after mentioned, holding any schoolroom, schoolhouse, or any other house, land, or tenement, by virtue of his or her office, shall have been dismissed or removed, or shall have ceased to be master or mistress, and shall neglect or refuse to quit and deliver up possession of the premises within the space of three calendar months after such dismissal or ceasing to be master or mistress, not having any lawful authority for retaining such possession, it shall be lawful for the justices of the peace acting for the district or division in which such premises are situated, in petty sessions assembled, or any two of them, or for the sheriff of the county in Scotland, and they are hereby required, on the complaint of the trustees or managers of the said school, or some one of them, on proof of such master or mistress having been dismissed or removed, or having ceased to be such master or mistress, to issue a warrant under their hands and seals, or under the hand of such sheriff in Scotland, to some one or more of the constables and peace officers of the said district or division, or of the sheriff's officers in Scotland, commanding him or them, within a period to be therein named, not less than ten nor more than twenty-one clear days from the date of such warrant, to enter into the premises, and give possession of the same to the said trustees or managers or their agents, such entry and possession being given in England in such manner as justices of the peace are empowered to give possession of any premises to any landlord or his agent under an Act passed in the second year of the reign of her present Majesty, intituled, "An Act to facilitate the recovery of possession of tenements after "due determination of the tenancy."

19. POWERS OF CHURCH BUILDING COMMISSIONERS TO APPLY LAND TO SCHOOL PURPOSES SHALL EXTEND TO LAND GRANTED TO THEM BY WAY OF GIFT.—And whereas by an Act passed in the last session of Parliament, intituled "An Act to further amend the "Church Building Acts," provision was made to enable her Majesty's commissioners for building new churches to apply land in any parish granted to them for any of the purposes of the Church Building Acts to any other ecclesiastical purposes, or for the purpose of any parochial or charitable school, or any other charitable or public purpose relating to any such parish or place: And whereas through an accidental omission such provision does not extend to cases of land granted by way of gift: Be it therefore enacted, that such power so given to the said commissioners, so far as it is applicable to the purposes of any school, shall extend to every case of land granted, given or conveyed to them under the authority of the several Acts in the said Act recited.

20. DEFINITION OF THE TERM "PARISH."—The term "parish" in this Act shall be taken to signify every place separately maintaining its own poor, and having its own overseers of the poor and church or chapel wardens.

21. EXTENT OF ACT.—This Act shall not extend to Ireland.

22. ACT NOT TO AFFECT 3 & 4 VICT. C. 48.—Nothing herein contained shall repeal or affect an . . . Act passed in the last session of Parliament, intituled "An Act "to enable proprietors of entailed estates in Scotland to feu or lease on long leases "portions of the same for the building of churches and schools, and for dwelling houses "and gardens for the ministers and masters thereof."

S. 22 *in part rep.* 37 & 38 *Vict. c.* 96 (*S.L.R.*).

[*S.* **23** *rep.* 37 & 38 *Vict. c.* 96 (*S.L.R.*).]

Enactments referred to in 4 & 5 *Vict. c.* 38, *s.* 12.

1 & 2 *Will.* 4, *c.* 43.

An Act for amending and making more effectual the Laws concerning Turnpike Roads in Scotland.

. . . . . .

72. *If any money shall be agreed or awarded to be paid for any lands, buildings, or other heritable subjects, purchased, taken, or used, by virtue of the powers of this Act or*

any Turnpike Act, for the purposes of any turnpike road, or for the purpose of being added to any minister's glebe, as herein-after directed, which are held under entail, or are subject to life-rents, annuities, or other incumbrances, or shall belong to any trust, incorporation, married woman, infant, lunatic, or other person or persons under any legal disability or incapacity, such money shall, in case the same shall amount to the sum of L.200 *sterling, under the direction and by the authority of the court of session, be with all convenient speed paid into the Bank of Scotland, or Royal Bank of Scotland, or Bank of the British Linen Company, to the intent that such money shall be applied, under the direction and with the approbation of the said court, to be signified by an order made upon a petition to be preferred in a summary way by the person or persons who would have been entitled to the rents and profits of the said lands, buildings, or other heritable subjects, in the redemption or purchase of the land tax, or discharge of any debt or debts, or such other incumbrance, or part thereof, as the said court shall authorise to be paid, affecting the same lands, buildings, or other subjects, or affecting other lands, buildings, or heritable subjects standing settled therewith to the same or the like uses, intents, or purposes; or where such money shall not be so applied, then the same shall be laid out and invested, under the like direction and approbation of the said court, in the purchase of other lands, buildings, or heritable subjects, which shall be conveyed and settled to, for, and upon such and the like uses, trusts, intents, and purposes, in the same manner as the lands, tenements, or heritages which shall be so purchased, taken, or used as aforesaid stood settled or limited, or such of them as at the time of making such conveyance and settlement shall be existing undetermined and capable of taking effect; and in the meantime, and until such purchase shall be made, the interest or annual produce of such money shall from time to time be paid, by order of the said court, to the person or persons who would for the time being have been entitled to the rents and profits of the lands, buildings, or heritable subjects so hereby directed to be purchased, in case such purchase or settlement were made.*

73. *If any money so agreed or awarded to be paid for any lands, buildings, or heritable subjects so purchased, taken, or used for the purposes aforesaid, and belonging to any incorporation, or to any person or persons under disability or incapacity as aforesaid, shall be less than the sum of* L.200 *sterling, and not less than the sum of* L.20 *sterling, then and in all such cases the same shall, at the option of the person or persons for the time being entitled to the rents and profits of the subjects so purchased, taken, or used, or of his, her, or their tutors or curators, in case of infancy or lunacy, to be signified in writing under their respective hands, under the like direction and authority, be paid into any of the said banks, and be placed to his or their account as aforesaid, in order to be applied in manner herein-before directed; or otherwise the same shall be paid at the like option to two trustees, to be nominated by the person or persons making such option, and approved of by three or more of the trustees of the turnpike road or roads on account for which such money shall have been agreed or awarded to be paid (such nomination and approbation to be signified in writing under the hands of the nominating or approving parties), in order that such principal money, and the interest arising therefrom, may be applied in any manner herein-before directed, so far as the case be applicable.*

74. *Where such money so agreed or awarded to be paid as last before mentioned shall be less than* L.20 *sterling, then and in all such cases the same shall be applied to the use of the person or persons who would for the time being have been entitled to the rents and profits of the subjects so purchased, taken, or used for the purposes of this Act, in such manner as such trustees of any turnpike road as aforesaid, or any two or more of them, shall think fit; or in case of infancy or lunacy, then to his, her, or their tutors and curators, to and for the use and benefit of such person or persons so entitled respectively.*

75. *In case any person or persons to whom any sums of money shall be awarded for the purchase of any lands, buildings, or other heritable subjects to be purchased by virtue of this Act, shall refuse to accept the same, or shall not be able to make a good title to the premises to the satisfaction of the said trustees, or in case such person or persons to whom such sums of money shall be so awarded as aforesaid cannot be found, or if the person or persons entitled to such lands, tenements, or heritages be not known or discovered, then and in every such case it shall and may be lawful to and for such trustees of any turnpike road or roads as aforesaid, or any two or more of them, to order the said sum or sums of money so awarded as aforesaid to be paid into the Bank of Scotland, or Royal Bank of Scotland, or Bank of the British Linen Company, to the credit of the parties interested in the said lands, buildings, or other heritable subjects (describing them), subject to the order, control,*

and disposition of the court of session; which said court, on the application of any person or persons making claim to such sum or sums of money or any part thereof, by petition, shall, and is hereby empowered, in a summary way of proceeding or otherwise, as to the same court shall seem meet, to order the same to be laid out and invested in the public funds, and to order distribution thereof, or payment of the dividends thereof, according to the respective estate or estates, title, or interest of the person or persons making claim thereunto, and to make such other order in the premises as to the said court shall seem just and reasonable; and the cashier or cashiers of the Bank of Scotland, or Royal Bank of Scotland, or Bank of the British Linen Company, who shall receive such sum or sums of money, is and are hereby required to give a receipt or receipts for such sum or sums of money, mentioning and specifying for what and for whose use the same is or are received, to such person or persons as shall pay any such sum or sums of money into the bank as aforesaid.

76. *Where any question shall arise touching the title of any person to any money to be paid into the said banks for the purchase of any lands, buildings, or other heritable subjects as aforesaid, the person or persons who shall have been in possession of such lands, buildings, or other heritable subjects at the time of such purchase, and all persons claiming under such person or persons, or under the possession of such person or persons, shall be deemed and taken to have been lawfully entitled to such lands, buildings, or other subjects according to such possession, until the contrary shall be shown to the satisfaction of the said court of session; and such money, and the interest thereof, shall be paid, applied, and disposed of accordingly, unless it shall appear to the said Court that such possession was a wrongful possession, and that some other person or persons was or were lawfully entitled to such lands, buildings, or other heritable subjects.*

77. *Where by reason of any disability or incapacity of the person or corporation entitled to any lands, buildings, or other heritable subjects to be purchased under the authority of any Turnpike Act or of this Act, the purchase money for the same shall be required to be paid into the said banks, and to be applied in the purchase of other lands, buildings, or other heritable subjects, to be settled to the like uses in pursuance of this Act, it shall be lawful for the said court to order the expences of all purchases from time to time to be made in pursuance of this Act, or so much of such expences as the said court shall deem reasonable, together with the necessary expences of obtaining such order, to be paid by the said trustees out of the purchase money of the lands, buildings, or other heritable subjects acquired by them, who shall from time to time pay such sums of money for such purposes as the said court shall direct.*

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5 VICTORIA, 1841.

CHAPTER I.

THE CROWN LANDS ACT, 1841 (*Short Titles Act*, 1896).

AN ACT to authorize Her Majesty's Commissioners of Woods to grant Building Leases of the Royal Kitchen Garden at Kensington, and to form and improve other Royal Gardens; and to enable the said Commissioners to purchase Lands of Copyhold or Customary Tenure. [5th October 1841.]

[*Preamble.*]

[*Ss.* **1–4** *local and personal.*]

5. COMMISSIONERS OF WOODS, &C. MAY PURCHASE COPYHOLD LANDS ON BEHALF OF HER MAJESTY IN CERTAIN CASES.—And whereas it is expedient that the powers now by law vested in the commissioners of her Majesty's woods, forests, land revenues, works, and buildings, to purchase, sell, lease, or exchange, on behalf of her Majesty, any manors or hereditaments in fee simple or any copyhold lands or hereditaments, the freehold of which shall be in the crown, should be extended so as to empower the said commissioners

to purchase, sell, lease, or exchange, on behalf of her Majesty, any messuages, lands, or hereditaments of copyhold or customary tenure: Be it enacted, that it shall be lawful for the said commissioners for the time being of her Majesty's woods, forests, land revenues, works, and buildings, from time to time, with the consent of the lord high treasurer, or commissioners for exercising the office of lord high treasurer of the United Kingdom of Great Britain and Ireland, to contract for and purchase, for and on behalf of her Majesty, any messuages, lands, tenements, or hereditaments of copyhold or customary tenure, which shall adjoin to, be intermixed with, or be convenient and desirable to be held with any freehold hereditaments which are now vested or any time hereafter may be or become vested in her Majesty, in right of the crown.

6. LAND SO PURCHASED TO BE VESTED IN TRUSTEES ON BEHALF OF HER MAJESTY, &c.—On every purchase made by the said commissioners for the time being of her Majesty's woods, forests, land revenues, works, and buildings, on behalf of her Majesty, of any messuages, lands, tenements, or hereditaments of copyhold or customary tenure, the said commissioners shall cause such messuages, lands, tenements or hereditaments to be surrendered to or well and effectually vested in a trustee or trustees for and on behalf of her Majesty, who shall thereupon execute a declaration of trust in necessary and proper form; which declaration of trust, together with an authenticated copy of the surrender and admittance, shall in every case with all convenient speed thereafter be enrolled in the office of land revenue records and inrolments, and a minute or docquet thereof entered in the office of the said commissioners for the time being of her Majesty's woods, forests, land revenues, works, and buildings.

7. PROVISIONS OF 10 GEO. 4, C. 50, SHALL EXTEND TO PURCHASES, &C. OF COPYHOLD LANDS.—All the provisions, rules, and regulations in the before-mentioned Act of the tenth year of the reign of his late Majesty King George the Fourth expressed or contained, in relation to the purchasing, selling, leasing, or exchanging any part of the possessions and land revenue of the crown, shall extend and apply to the purchasing, selling, leasing, or exchanging, on behalf of her Majesty, of any messuages, lands, tenements, or hereditaments of copyhold or customary tenure.

[*Sched. local and personal.*]

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5 & 6 VICTORIA, 1842.

CHAPTER XXXV.

THE INCOME TAX ACT, 1842 (*Short Titles Act*, 1896).

AN ACT for granting to Her Majesty Duties on Profits arising from Property, Professions, Trades, and Offices.[1] . . . . . [22nd June 1842.]

Title in part rep. 51 & 52 *Vict. c.* 57 (*S.L.R.*).

[1] *So much of this Act and of the Acts amending the same as authorizes the payment to any person employed in either House of Parliament or in the public departments, courts, and offices mentioned in sections* 28, 30, *and* 34 *of this Act, of any remuneration for acting as assessor or collector of any income tax assessable by the commissioners acting under those sections, or for acting as clerk to such commissioners, rep.* 35 & 36 *Vict. c.* 82.

[*S.* **1** (*granting the duties mentioned in Schedules* (*A*), (*B*), (*C*), (*D*), *&* (*E*), *herein-after contained*), *and s.* **2** *rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*).]

3. THE DUTIES TO BE ASSESSED AND RAISED UNDER THE REGULATIONS OF 43 GEO. 3, C. 99, IN ENGLAND; AND OF 43 GEO. 3, C. 150, IN SCOTLAND—APPLICATION OF POWERS AND PROVISIONS OF RECITED ACTS, AND OTHER ACTS RELATING TO THE ASSESSED TAXES, AND OF 48 GEO. 3, C. 141, AND 50 GEO. 3, C. 105.— . . . The said duties hereby granted arising in England shall be assessed, raised, levied, and collected under

the regulations of an Act passed in the forty-third year of the reign of King George the Third, intituled "An Act for consolidating certain of the provisions contained in any "Act or Acts relating to the duties under the management of the commissioners for the "affairs of taxes, and for amending the same," and other Acts relating thereto, or for explaining, altering, or amending the same; and the said duties arising in Scotland shall be assessed, raised, levied, and collected under the regulations of an Act passed in the same session of Parliament, intituled "An Act for consolidating certain of the provisions "contained in any Act or Acts relating to the duties under the management of the "commissioners for the affairs of taxes, and for amending the said Acts, so far as the "same relate to that part of Great Britain called Scotland," and other Acts relating thereto, or for explaining, altering, or amending the same; and all the powers, authorities, methods, rules, directions, penalties, clauses, matters, and things now in force, contained in or enacted by the several Acts before recited or referred to, or any other Acts relating to the duties of assessed taxes, and also all the powers, authorities, rules, regulations, directions, penalties, clauses, matters, and things contained in or enacted by two several Acts of Parliament passed respectively in the forty eighth and fiftieth years of the reign of King George the Third, and intituled respectively "An Act to amend the Acts relating to the "duties of assessed taxes, and of the tax upon the profits of property, professions, trades, "and offices, and to regulate the assessment and collection of the same," and "An Act "to regulate the manner of making surcharges of the duties of assessed taxes, and of the "tax upon profits arising from property, professions, trades, and offices, and for amending "the Acts relating to the said duties respectively," whether such last-mentioned powers, authorities, rules, regulations, directions, penalties, clauses, matters and things shall be in force at the time of the passing of this Act or not, and notwithstanding that the same or any part thereof may have expired or been repealed, shall severally and respectively be and become in full force and effect with respect to the duties hereby granted, and shall be severally and respectively duly observed, applied, practised, and put in execution throughout the respective parts of Great Britain, for raising, levying, collecting, receiving, accounting for, and securing of the said duties hereby granted, and for auditing the accounts thereof, and otherwise relating thereto, so far as the same shall not be superseded by and shall be consistent with the express provisions of this Act, as fully and effectually to all intents and purposes as if the same powers, authorities, methods, rules, directions, penalties, clauses, matters, and things were particularly repeated and re-enacted in the body of this Act with reference to the said duties hereby granted, and respectively applied to such parts of Great Britain as aforesaid; and all and every the regulations of such Acts (except as aforesaid) shall be applied, construed, deemed, and taken to refer to this Act, and to the duties hereby granted, in like manner as if the same had been enacted therein.

S. 3 *in part rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*).

4. 38 Geo. 3, c. 5—Commissioners of Land Tax at District Meetings to appoint from among themselves Commissioners for the general purposes of this Act, &c.—In default of Land Tax Commissioners, other fit persons may be appointed who reside in the District; or in an adjoining District—Where seven persons are chosen, no others shall act.—And whereas it is expedient to appoint commissioners for the general purposes of this Act from and amongst the persons appointed commissioners for the execution of an Act passed in the thirty-eighth year of the reign of King George the Third, intituled "An Act for granting an aid to his Majesty by a land "tax to be raised in Great Britain for the service of the year one thousand seven "hundred and ninety-eight," or from and amongst the persons appointed commissioners for the execution of the said Act by any subsequent Act of Parliament passed or to be passed, to act in the execution of this Act, so far as relates to the powers hereby vested in such commissioners: Be it enacted, that the several persons appointed or to be appointed commissioners for putting in execution the said Land Tax Act in the respective parts of Great Britain therein mentioned, being respectively qualified to act as commissioners in execution of the said Land Tax Act, shall meet within the county, riding, shire, or stewartry, or within each hundred, rape, lathe, or wapentake, of the county, riding, shire, or stewartry for which they are or shall be respectively appointed commissioners of the said Land Tax Act, or within such other division of the said county, riding, shire, or stewartry, as the commissioners of stamps and taxes shall direct, and also within each city, borough, cinque port, liberty, franchise, town, and place, for

which separate commissioners have been appointed with exclusive jurisdiction for putting in execution the said Land Tax Act within the same, which meetings shall be convened from time to time by the commissioners of stamps and taxes when and as they shall deem necessary, by notice inserted in the London Gazette and Edinburgh Gazette for England and Scotland respectively, and shall be held at such time and place as shall be appointed by such notice; and at every such meeting the said commissioners of the Land Tax Act, or the major part of them then present, shall choose and set down in writing the names of such of the commissioners appointed as aforesaid who shall respectively be qualified as hereinafter is required, and who shall be fit and proper to act as commissioners for the general purposes of this Act in such county, riding, shire, or stewartry aforesaid, and in each and every district within each respective hundred, rape, lathe wapentake, or other division aforesaid, and within each city, borough, cinque port liberty, franchise, town, and place aforesaid, observing always in the execution of this Act the same limits which shall have been or may be settled for the districts under the Acts relating to the duties of assessed taxes; and the names of such persons who shall be so chosen shall be set down in the order in which the major part of the commissioners then present shall judge fit they should respectively be appointed commissioners in their respective districts; and any seven, or any less number than seven, not being in any case less than three, of the persons so set down, and in the order in which they shall be so set down in such list, shall be commissioners for the general purposes of this Act and of the duties granted as aforesaid, and they are hereby required to take upon themselves the execution of this Act and of the said duties, as such commissioners for general purposes; and any seven or any less number than seven, not being in any case less than three, of the persons so set down next in order in the list of names before mentioned, shall be commissioners to supply vacancies as the same may arise in the manner hereinafter mentioned: Provided always, that if at any such meeting as aforesaid the commissioners shall not find amongst the commissioners appointed for executing the said Land Tax Act, and set down in manner aforesaid, the names of seven persons to act and seven others to supply vacancies in each such district, it shall be lawful for them to appoint any persons residing within such district who shall respectively be qualified as herein-after is required, and who in their judgment shall be fit and proper to be commissioners for the general purposes of this Act, until the number of seven in each such list shall be completed, although such persons shall not have been appointed to act as commissioners in the execution of the said Land Tax Act: Provided also, that if at such meeting the commissioners shall not find and set down fourteen persons of the descriptions before mentioned to act as commissioners and to supply vacancies in each such district, it shall be lawful for them to select such number of persons as shall be requisite from the persons acting as commissoners for executing the said Land Tax Act in or for any adjoining or neighbouring district of the same county, riding, division, shire, stewartry, city, town, or place, in order that there shall be no failure in the execution of this Act; and the names of such respective persons who shall have been so chosen as aforesaid shall be transmitted to the head office for stamps and taxes in England and Scotland respectively in the order in which they shall have been set down in such lists: Provided always, that where seven persons, qualified as herein-after is required, shall be chosen to act as commissioners for any district as aforesaid, no other person shall interfere as a commissioner in the execution of this Act so long as such seven persons shall continue to act, except in the cases herein-after mentioned.

5. Within certain Cities and Towns other Commissioners shall be chosen to act with those chosen by the Land Tax Commissioners.—Within and for each of the cities and towns herein-after mentioned, (videlicet,) London, Bristol, Exeter, Kingston-upon-Hull, Newcastle-upon-Tyne, Norwich, Birmingham, Liverpool, Leeds, Manchester, King's Lynn, and Great Yarmouth, it shall be lawful for the persons herein-after mentioned to choose commissioners, and persons to supply their vacancies, to act together with the persons to be chosen or appointed as before directed; and in and for the city of London two commissioners, and two to supply their vacancies, shall be named by the mayor and aldermen of London out of eight persons, four of whom shall be aldermen, to be returned to them by the common council; two other commissioners, and two to supply their vacancies, by the Bank of England; one other commissioner, and one other to supply his vacancy, by each of the companies herein-after mentioned; (videlicet,) . . . the governor and directors of the Royal Exchange Assurance

Company, the governor and directors of the London Assurance Company, the directors for conducting and managing the affairs of the East and West India Dock Company, and the directors for conducting and managing the London Dock Company and the Saint Katherine Dock Company respectively for the time being; and it shall be lawful for the magistrates and justices of the peace acting in and for the city of Norwich to choose eight persons to be commissioners, and eight persons to supply their vacancies, not more than four of the said eight commissioners, and not more than four of the said eight persons to supply their vacancies, to be chosen from out of the said magistrates and justices, and the remaining four commissioners, and four persons to supply their vacancies, to be chosen from the inhabitants of the said city; and in and for each of the other cities and towns before mentioned it shall be lawful for the magistrates and justices of the peace acting in and for the said cities and towns respectively, together with the justices of the peace acting in and for the county, riding, or division wherein the same respectively are situate, to choose eight persons to be commissioners, and eight persons to supply their vacancies, as herein is mentioned; and the persons so to be chosen by the land tax commissioners as aforesaid, together with the other persons respectively to be chosen as herein is particularly directed, shall be commissioners for the purposes of this Act, and to supply their vacancies, as the same may arise, within and for the several districts in which such cities and towns respectively shall be situate, or which shall be formed by such cities and towns respectively, and for such other places which have usually been assessed in the same district with such cities and towns respectively towards the aid by a land tax; and the names of all persons so chosen as last aforesaid shall be returned to the commissioners of stamps and taxes.

S. 5 in part rep. 37 & 38 Vict. c. 96 (S.L.R.).

6. Where sufficient Commissioners are not chosen for Cities and Towns, persons qualified to act for the County may be chosen—Persons duly qualified may be chosen in certain cases although not appointed Commissioners of Land Tax. —Provided always, that in case there shall not be a sufficient number of commissioners chosen or appointed for general purposes as aforesaid, or to supply vacancies, capable of acting according to the qualification required by this Act for any city, borough, town, or place, then and in every such case any person qualified to act for the county at large, or riding, in which or adjoining which such city, borough, town, or place shall be situate, may be chosen to act as a commissioner for such city, borough, town, or place: Provided also, that any person residing in any county, riding, division, city, town, or place, where a commissioner shall be wanting, and qualified as herein-after mentioned, who shall be willing to act as a commissioner for general purposes as aforesaid, in any district where a commissioner shall be wanting, may be chosen in manner aforesaid to be such commissioner, although such person shall not have been appointed to act in the execution of the said Land Tax Act, anything herein-before contained to the contrary notwithstanding.

7. Supply of Vacancies among Commissioners for general purposes.—When any commissioner for general purposes shall die, or decline to act, or having begun to act shall decline to act any further therein, the remaining commissioners shall choose one or more of the persons on the list to supply vacancies, who shall be appointed in the place of the commissioner so refusing or declining to act, or dying, provided the person so to be appointed to supply such vacancy shall have been chosen in the same manner as the person so refusing or declining to act, or dying; and the several commissioners of land tax shall at such their meetings, convened in manner aforesaid, and the several persons authorized to appoint commissioners for the several cities and towns aforesaid shall, on notice thereof from the clerk to the acting commissioners for the same cities and towns respectively, as often as occasion shall require, select and add new names to the persons before chosen to supply vacancies, who shall respectively be commissioners for general purposes, as and when such vacancies shall happen: Provided always, that if the list for supplying vacancies to be made and renewed as aforesaid shall at any time be defective, so that the due number of commissioners cannot be supplied therefrom, the same shall be filled up and renewed from time to time by the acting commissioners for general purposes in the district where such failure shall have happened.

8. Land Tax Commissioners to execute this Act in default of appointing other

Commissioners, or on neglect of Commissioners appointed under this Act; and Commissioners for special purposes on neglect of Land Tax Commissioners.—If in any district there shall be a neglect in appointing commissioners for general purposes as hereby is directed, or the commissioners so appointed shall neglect or refuse to act, or having begun to act shall decline to act further therein, it shall be lawful for the commissioners appointed to execute the said Land Tax Act, being respectively qualified as directed by this Act. and they and every of them, not in any case exceeding the number of seven, on notice of such neglect and want of appointment, given to their clerk by any inspector or surveyor of taxes duly authorized to give such notice by the commissioners of stamps and taxes, shall and they are hereby strictly enjoined and required to take upon themselves forthwith the execution of this Act and to do and execute all matters and things which commissioners chosen in pursuance of this Act are hereby required and empowered to do; and if in any district there shall be a want of such last-mentioned commissioners, the commissioners of any adjoining district in the same county, riding, or division, being respectively qualified as directed by this Act, shall, on like notice as aforesaid, execute this Act as such commissioners, by themselves, or in concurrence with any persons willing to act as commissioners of the district where this Act shall require to be executed; and if the persons aforesaid to whom such notice shall have been given shall not take upon themselves the execution of this Act, within ten days next after such notice given, or shall not proceed therein with due diligence, then and in every such case it shall be lawful for the commissioners for special purposes, to be appointed under the authority of this Act, to execute this Act in such district in all matters and things hereby directed to be done by commissioners for general purposes: Provided always, that where commissioners willing to act in each district shall not be returned to the head office for stamps and taxes in England and Scotland respectively as aforesaid, then and in such case it shall be lawful for the said commissioners of stamps and taxes to cause such notices as aforesaid to be given to two or more of the persons on whom the right of executing this Act shall devolve in pursuance of the directions of this Act before mentioned.

9. Commissioners may appoint a Clerk and Assistant—Penalty on Clerk or Assistant for misconduct.—The commissioners to be appointed for general purposes in manner aforesaid shall appoint a clerk, and if necessary an assistant clerk, for the duties to be assessed by them in each district who shall execute their office according to the regulations of this Act and the Acts herein respectively mentioned or referred to; and every such clerk and assistant shall act as such, as well in all matters and things to be done by, under, and before the respective commissioners for general purposes, as by, under, and before the respective additional commissioners herein-after mentioned in the respective districts; provided that no more than one clerk's assistant shall be appointed for any district without the approbation of the commissioners of stamps and taxes, on a statement made to them by the commissioners for general purposes of the necessity thereof in consideration of the extent or population of the district; and if any clerk or clerk's assistant appointed under the authority of this Act, who shall have taken the oath herein-after required, shall wilfully obstruct or delay the execution of this Act, or shall negligently conduct or wilfully misconduct himself in the execution of this Act, he shall forfeit the sum of one hundred pounds, and shall be dismissed from the said office, and be rendered incapable of again acting as clerk or clerk's assistant in the execution of this Act or any other Act for granting duties under the management of the commissioners of stamps and taxes.

10. Qualification of Commissioners for general purposes for Districts or Divisions of Counties and for certain Cities and Towns in England.—No person herein required to be qualified in respect of estate shall be capable of acting as a commissioner for general purposes in the execution of this Act for any district or division of any county at large within England (the county of Monmouth and the dominion of Wales excepted), or of any of the ridings of the county of York, or of the county or divisions of Lincoln, or in or of any of the several cities and towns of London, Westminster, Bristol, Exeter, Kingston-upon-Hull, Newcastle-upon-Tyne, Norwich, Birmingham, Liverpool, Leeds, Manchester, King's Lynn, and Great Yarmouth, unless such person be seised or possessed of lands, tenements, or hereditaments in Great Britain of the value of two hundred pounds per annum or more, of his own estate, being freehold or copyhold, or leasehold for a term whereof not less than seven years are unexpired,

over and above all ground rents, incumbrances, and reservations payable out of the same respectively, or unless such person shall be seised or possessed of personal estate of the value of five thousand pounds, or a personal estate, or an interest therein, producing an annual income of two hundred pounds, or of lands, tenements, or hereditaments, and personal estate, or an interest therein, being together of the annual value of two hundred pounds, estimating in every such case one hundred pounds personal estate as equivalent to four pounds per annum, and an interest from personal estate of four pounds per annum as equivalent to one hundred pounds personal estate, or unless such person be the eldest son of some person who shall be seised or possessed of a like estate of thrice the value required as the qualification of a commissioner, in right of his own estate, for such county at large, riding, division or city.

11. Qualification for the County of Monmouth, the Counties in Wales, and for the Cities, Towns, or Places not before mentioned.—No person herein required to be qualified in respect of estate shall be capable of acting as a commissioner for general purposes in execution of this Act in any district or division of the county of Monmouth, or of any county in Wales, or of any city, borough, cinque port, liberty, franchise, town, or place in England or Wales, (other than the cities and towns hereinbefore mentioned,) unless such person be seised or possessed of an estate of the like nature and of four fifths of the value required for the estate of a commissioner acting for a district or division of a county at large in England as aforesaid, or unless such person be the eldest son of some person who shall be seised or possessed of some estate of thrice the value required as the qualification of a commissioner, in right of his own estate, for the same county, city, borough, cinque port, liberty, franchise, town, or place.

12. Qualification for Shires in Scotland.—No person hereby required to be qualified in respect of estate shall be capable of acting as a commissioner for general purposes in execution of this Act for any shire in Scotland unless such person be enfeoft in superiority or property, or possessed as proprietor or liferenter, of lands in Scotland to the extent of one hundred and fifty pounds Scots per annum valued rent, or unless such person be possessed of personal estate of the value of five thousand pounds, or of personal estate, or an interest therein, producing an annual income of two hundred pounds sterling, or be enfeoft or possessed as aforesaid of lands and personal estate, or an interest therein, being together of the annual value of two hundred pounds sterling, estimating in every such case one hundred pounds personal estate as equivalent to four pounds per annum, and an interest from personal estate of four pounds per annum as equivalent to one hundred pounds personal estate, or unless such person be the eldest son of some person who shall be enfeoft or possessed of a like estate of twice the value required as the qualification of a commissioner, in right of his own estate, for such shire.

13. Qualification for Cities or Boroughs in Scotland.—No person herein required to be qualified in respect of estate shall be capable of acting as a commissioner for general purposes in execution of this Act for any city or borough in Scotland unless such person be enfeoft or possessed of an estate of the like nature and of three fifths of the value required for the estate of a commissioner acting for any shire in Scotland, or unless such person be the eldest son of some person enfeoft or possessed of some estate of thrice the value required as the qualification of a commissioner, in right of his own estate, for the same city or borough.

14. Qualification in Lands need not be in the County—Proof of Qualification.—Provided always, that no estate consisting of lands or tenements, as the qualification of a commissioner, shall be required to be situate in the county, riding, division, for which any person shall be a commissioner: Provided also, that the proof of qualification, where required, shall lie on the person acting in the execution of this Act, in such manner as is by law directed with respect to commissioners acting in the execution of the said Land Tax Act.

15. Qualification not required for certain Officers acting as Commissioners, nor for Special Commissioners.—Provided also, that nothing herein contained shall be construed to require any qualification of a commissioner in the district of the palaces of Whitehall and Saint James Westminster, for any officer who shall have heretofore acted or may hereafter act as a commissioner for putting in execution the said Land Tax Act in the said district, other than the possession of their respective offices; nor in any shire in Scotland, for any provost, baillie, dean of guild, treasurer, master of the

merchants company, or deacon convener of the trades for the time being of any royal burgh in Scotland, nor any baillie for the time being of any borough of regality or barony of Scotland, nor the factors for the time being on the several forfeited estates annexed to the crown by an Act passed in the twenty-fifth year of the reign of King George the Second, who shall be respectively appointed commissioners for executing the said Land Tax Act in any shire in Scotland; nor for any commissioner for special purposes acting in the execution of any of the powers or provisions of this Act.

16. Provision for choosing additional Commissioners—Execution of Act when additional Commissioners are not named.—Whenever it shall be deemed by the commissioners for the general purposes of this Act to be expedient that certain of the powers herein contained shall be executed by commissioners other than and in addition to the persons to be chosen or appointed as aforesaid, such additional commissioners shall be chosen by the commissioners for general purposes acting in the same district; for which purpose the said commissioners, being duly qualified as required by this Act, shall, with the consent of the major part of them assembled at any meeting to be held for that purpose, set down in writing lists of the names of such persons residing within their respective districts as shall in the opinion of such commissioners be fit and proper persons to act as such additional commissioners, which lists shall contain the names of so many of those persons as the said commissioners shall in their discretion, after taking into consideration the size of each district, and the number of persons to be assessed therein, think requisite for the due execution of this Act; which lists, being respectively signed by such commissioners, shall be a sufficient authority for such additional commissioners being respectively qualified as herein-after is mentioned, and they are hereby authorized to take upon themselves the execution of the several powers of this Act according to the provisions thereof: Provided always, that the persons appointed to supply vacancies in any district may be chosen and act as additional commissioners until their services shall be required as commissioners for general purposes: Provided also, that no person shall be capable of acting as such additional commissioner who shall not be seised or enfeoft or possessed of an estate of the like nature, and of one half the value, herein required for the estate of a commissioner for general purposes in the same district: Provided also, that where no additional commissioners shall be named and appointed in any district, the commissioners appointed for general purposes shall execute this Act in such district in all matters and things hereby authorized to be done by additional commissioners.

17. Appointment of Commissioners in places where there are not a sufficient number of persons qualified and willing to act.—Provided always, that if in any city, liberty, franchise, cinque port, town, or place, for which separate commissioners have been appointed to act in execution of the said Land Tax Act, there shall not be found a sufficient number of persons, qualified as directed by this Act, and willing to act as commissioners for general purposes, or as additional commissioners, it shall be lawful to appoint, as such commissioners or additional commissioners, any persons residing in such city, liberty, franchise, cinque port, town, or place, who shall be liable to be assessed under the provisions contained in this Act for annual profits, however arising, to the amount of two hundred pounds or upwards.

18. Newly appointed Commissioners may assess and levy for former years.—Whenever a new appointment of commissioners shall take place, they shall execute this Act as well with respect to the duties which shall not but which ought to have been assessed in any former year, and with respect to arrears of duties assessed in any former year under this Act, as to the assessments to be made in such year in which they shall be appointed, and shall have the like powers to assess, levy, and collect such duties and arrears as they have to assess, levy, and collect the duties assessed by them; for all which acts such appointment shall be a sufficient authority, subject to the regulations of this Act.

19. Notice to be given to additional Commissioners to take upon themselves the execution of this Act, &c.—Clerk.—Whenever the said commissioners for general purposes shall have named such additional commissioners as aforesaid, they shall cause notice thereof in writing, signed by two or more of them, to be delivered to the said additional commissioners by the assessors of the respective parishes or places where they reside, naming the day and place appointed by the commissioners for general

purposes for the first meeting of the said additional commissioners, and which meeting shall be appointed to be held not later than ten days after the date of such notice; and the said respective assessors shall, without delay, cause the respective persons so named to be summoned, by notice in writing, either given personally or left at their respective places of abode, to assemble, at the time and place mentioned in such notice, for the purpose of qualifying themselves to act in the execution of the powers vested in them by this Act; and the said commissioners for general purposes shall administer the oath to such additional commissioners required by this Act to be taken by them, and shall then and there appoint a day for the said additional commissioners to bring in their certificates of assessment in the manner herein directed; and the clerk to the commissioners in each district, or his assistant, shall also be appointed clerk to the additional commissioners appointed for the same district, and shall attend the said additional commissioners at their meetings as their clerk.

20. Division of additional Commissioners into District Committees, &c.—It shall be lawful for the commissioners for general purposes, whenever in their judgment the same shall be requisite, to divide such additional commissioners into district committees, and to allot to each committee distinct parishes, wards, or places in which such committees shall separately act in the execution of this Act, but so that the meetings of such committee shall be appointed at such times as that the clerk to such commissioners may attend every meeting: Provided always, that not more than seven persons shal act together as additional commissioners for the same district not being formed into several divisions as aforesaid, nor any greater number act together in the same committee; and that where more than seven persons shall attend as such additional commissioners at any meeting, either for the whole of any district or for any division thereof, the seven persons first in their order on the list signed by the commissioners for general purposes then present shall act, and the rest shall withdraw from such meeting: Provided also, that not less than two additional commissioners shall be competent to form any meeting either for any district or division thereof, and that any two of them, or the major part of them then present, shall be competent to do any act authorised by this Act.

21. Provision for appointing a greater number of Commissioners for general purposes instead of additional Commissioners—Execution of Act where none such are appointed.—Provided always, that if it shall appear to the commissioners for general purposes, whether they shall have been chosen as aforesaid or shall act by virtue of their appointment of commissioners for executing the said Land Tax Act, to be expedient that a greater number than seven commissioners for general purposes, possessing the qualification required for such commissioners, should be appointed for any district, instead of appointing commissioners possessing only the qualification required for additional commissioners as before mentioned, it shall be lawful for them to appoint such greater number, not in any case exceeding the number of seven, observing, with regard to such appointments, the same rules as in the first appointment of commissioners for general purposes, but nevertheless without adding thereto any persons to supply their vacancies; and in every case of appointing such increased number of commissioners for general purposes it shall be lawful for the said commissioners, at their first meeting after such appointment, and they are hereby required, to choose indifferently by lot such number of their own body, not less than two or more than seven, to execute the office vested in additional commissioners by this Act; and the persons so chosen shall be additional commissioners for executing this Act, and the powers hereby vested in additional commissioners, and they are hereby required to execute this Act accordingly, and the remaining commissioners not so chosen by lot shall execute the powers vested in the commissioners for general purposes: Provided also, that where no such additional commissioners shall have been appointed specially to execute the powers vested in additional commissioners, the commissioners acting in the execution of the powers of this Act, whether chosen as aforesaid or not, shall divide themselves in such manner that two commissioners at the least shall be appointed to execute the powers vested in additional commissioners by this Act; and if in such case there shall not be two remaining persons at least qualified to Act as commissioners for general purposes in such district, then the persons qualified to act in the execution of the powers of this Act as commissioners for general purposes in any adjoining district of the same county, riding, division, shire, or stewartry, or such number of them as shall be requisite, shall

execute this Act and the powers hereby vested in commissioners for general purposes in and for such first-mentioned district.

22. Commissioners for General Purposes to execute all matters with respect to the Duties under Schedules (A.), (B.), (D.), and (E.), except such as are directed to be executed by Special or other Commissioners.—The Commissioners for general purposes shall execute this Act in all matters and things relating to the duties in schedules (A.) and (B.) of this Act, except such allowances in respect thereof as are directed to be made in number VI. of schedule (A.) by other commissioners for special purposes as herein-after mentioned, and also all matters and things relating to the duties in schedule (D.) of this Act, except in cases where such matters and things are herein directed to be done by the said commissioners for special purposes, or by the additional commissioners, or persons acting as such; and the said commissioners for general purposes, shall also execute this Act in all matters and things relating to the duties in schedule (E.) not executed by the commissioners authorized to be appointed for those duties: Provided always, that nothing herein contained shall be construed to preclude any person chosen a commissioner for general purposes from acting as such by reason of his acting or having acted as an additional commissioner, except only in the hearing and determining of appeals against or relating to such particular assessments, wherein he shall have made an assessment as such additional commissioner.

23. Commissioners for Special Purposes—Functions of Special Commissioners—Appointments of Commissioners for Special Purposes with Salaries to be laid before Parliament.—The commissioners of stamps and taxes for the time being, together with such persons as shall be appointed commissioners for special purposes as next herein-after mentioned, shall be commissioners for the special purposes of this Act; and it shall be lawful for the Treasury by warrant from time to time to appoint such and so many other persons to be commissioners for such special purposes as they respectively shall think expedient; which said commissioners of stamps and taxes, and commissioners so to be appointed as last aforesaid, without other qualification being required than the possession of their respective offices, shall have full authority to execute the several powers given by this Act to commissioners for special purposes, either in relation to the allowances specified in number VI. schedule (A.) of this Act, or in relation to the special exemptions granted from the duties mentioned in schedule (C.) of this Act, or to the charging and assessing the profits arising from annuities, dividends, and shares of annuities paid in Great Britain out of the revenues of any foreign state, as herein mentioned, and also in relation to the examining, auditing, checking, and clearing the books and accounts of dividends delivered to the commissioners of stamps and taxes under the authority of this Act; and shall also have full authority to do any other act, matter, or thing hereby directed or required to be done by commissioners for special purposes; and all powers, provisions, clauses, matters, and things contained in this Act for ascertaining the amount of any duty, exemption, or allowance mentioned in this Act shall be used, practised, and put in execution by the said commissioners for special purposes in ascertaining the amount of duty or any exemption or allowance placed under their cognizance or jurisdiction: Provided always, that it shall not be lawful for the said commissioners for special purposes (except when acting in the execution of this Act in the place of commissioners for general purposes, or on any appeal in the cases authorized by this Act,) to summon any person to be examined before them, but all inquiries by or before the said commissioners for special purposes (except in the several cases ss aforesaid) shall be answered by affidavit, to be taken before one of the commissioners for general purposes in their respective districts; and such commissioners for special purposes shall have authority to use, exercise, and apply all the powers of this Act, as effectually as any other commissioners are hereby authorized to use, exercise, or apply the same, so far as the same powers relate to the jurisdiction given to the said commissioners for special purposes; and the said commissioners for special purposes shall and may be allowed such salary for their pains and trouble, and such incidental expenses, as the Treasury shall direct to be paid to them: Provided always, that the Treasury shall cause an account of all appointments of commissioners for special purposes with salaries to be laid before each House of Parliament within twenty days after their appointment respectively, if Parliament shall then be sitting, and if Parliament shall not be sitting then within twenty days after the next meeting of Parliament.

24. Governor and Directors of the Bank of England to be Commissioners for assessing Duties on all Annuities, Dividends, Pensions, Salaries, &c. payable by the Bank, and on their Profits.—The governor and directors of the company of the Bank of England shall be commissioners for executing this Act, for the purpose of assessing and charging the duties hereby granted in respect of all annuities payable to the said company at the receipt of the Exchequer, and the profits attached to the same and divided amongst the several proprietors, and in respect of all annuities, dividends, and shares of annuities payable out of the revenue of the United Kingdom to any persons, corporations, or companies whatever, and which shall have been intrusted to the said governor and company for such payment, and in respect of all other annuities, dividends, and shares of annuities which shall have been intrusted to the said governor and company for payment as aforesaid, and in respect of all profits and gains of the said company chargeable under schedule (D.) of this Act, and in respect of all other dividends, annuities, pensions, and salaries payable by the said company, and also in respect of all other profits chargeable with duty under this Act, and arising within any office or department under the management or control of the said governor and company; and the said commissioners shall have authority to use, exercise, and apply all the powers of this Act as fully and effectually as the commissioners for the general purposes of this Act are authorized to use, exercise, or apply the same, so far as the same relate to the said duties to be assessed and charged by the said governor and directors, and shall make their assessments of the said duties under and subject to the rules, regulations, and exemptions contained in the several schedules of this Act under which such duties are respectively chargeable.

[*Ss.* **25, 26** *rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*).]

27. Directors of the East India Company to be Commissioners for assessing Duties on Interest, Dividends, Annuities, Pensions, Salaries, &c., payable by them.—The directors of the East India Company shall be commissioners for executing this Act, and with the like powers as aforesaid, for the purposes of assessing and charging the duties hereby granted in respect of the interest payable on the bonds of the said company, and in respect of all dividends, annuities, pensions, and salaries payable by the said company, and also in respect of all other profits and gains chargeable with duty under this Act, and arising within any office or department under the management or control of the said company; which assessments shall be made under and subject to the rules, regulations, and exemptions contained in the several schedules under which the said duties are respectively chargeable.

28. Commissioners for Reduction of National Debt to assess the Duties on all Annuities paid by them, and on Salaries and Pensions.—The commissioners for the reduction of the national debt shall be commissioners for executing this Act, and with the like powers as aforesaid, for the purpose of assessing and charging the duties hereby granted in respect of all annuities payable by them out of the revenue of the United Kingdom, and in respect of all salaries and pensions payable in any office or department under their management or control; and the said commissioners shall make their assessments of the said duties under and subject to the rules, regulations, and exemptions contained in the several schedules under which the said duties are respectively chargeable.

29. Commissioners for charging foreign Dividends.—The said commissioners for special purposes shall be commissioners under the regulations of this Act, and with the like powers as aforesaid, for the purpose of assessing and charging the duties hereby made payable on all dividends and shares of annuities payable out of the revenue of any foreign state to any persons, corporations, companies, or societies in Great Britain, which shall have been or shall be intrusted for such payment to any person, corporation, company, or society whatever in Great Britain, other than and except the several companies aforesaid; which assessments shall be made under and subject to the rules, regulations, and exemptions contained in the schedule (C.) of this Act.

30. Appointment of Commissioners for the Duties on Offices in the Courts or Public Departments—Power reserved to the Treasury with respect to the assessing of Public Departments.—And for the ordering, raising, levying, and paying of the said sums of money hereby made payable on offices and employments of profit, be it enacted, that the lord high chancellor, the judges, and the principal officer or

officers of each court or public department of office under her Majesty throughout Great Britain, whether the same shall be civil, judicial, or criminal, ecclesiastical or commissary, military or naval, shall respectively have authority to appoint commissioners from and amongst the officers of each court or department of office respectively; and the persons so appointed, or any three or more of them, not in any case exceeding seven, shall be commissioners for executing this Act in relation to the offices in each such court or department respectively: Provided always, that in relation to each department of office, not being one of her Majesty's courts, civil, judicial, or criminal, or an ecclesiastical or commissary court, the Treasury shall, whenever they may think it expedient, settle and determine in what particular departments commissioners shall not be appointed, and in such case shall settle and determine in what other department of office the officers of that department wherein commissioners shall not be appointed shall be assessed; and also whenever there shall be any default in the officers of any department, or in any court aforesaid, in appointing commissioners, the Treasury shall within the time herein limited appoint fit and proper persons to be commissioners for executing this Act in the several courts or departments of offices aforesaid for which they shall be appointed from and amongst the officers in the several departments respectively, uniting for the purposes of this Act, in cases requiring the same, two or more offices under the same commissioners, but nevertheless with distinct officers from each office so united for assessing and collecting the duties as directed by this Act; and where any dispute shall arise touching the department in which any office is executed, the Treasury shall determine the same: Provided also, that where the commissioners of one department shall execute this Act in relation to any other department, the assessors and collectors for such other department shall be appointed from the officers of such other department, with all the powers and privileges appertaining to such appointments: Provided also, that where no appointment shall be made of commissioners before the expiration of the time limited by this Act, the commissioners for executing this Act in relation to the duties on lands and tenements shall, on due notice in the manner herein directed, execute this Act in the several districts in relation to the said duties on offices and employments of profit exercised within the same districts respectively; and the appointment of such commissioners for offices and employments of profit shall be notified to the commissioners of stamps and taxes; and the want of such notification in due time shall be deemed full proof of default in making such appointment.

31. Commissioners for Duties in Offices in Houses of Parliament, Counties Palatine, Inferior Courts, and under Ecclesiastical Bodies.—The speaker and the principal clerk of either House of Parliament, the principal or other officers in the several counties palatine and the duchy of Cornwall, or in any ecclesiastical court, or in any inferior court of justice, whether of law or equity, or criminal or justiciary, or under any ecclesiastical body or corporation, whether aggregate or sole, throughout Great Britain shall appoint commissioners from and amongst the persons executing offices in either House of Parliament, or in their respective departments of office; and the persons so appointed, or any three or more of them, not in any case exceeding seven, shall be commissioners for executing this Act in relation to the places, offices, and employments of profit in each House of Parliament and in each such department respectively; which appointments shall be made and the names of the commissioners shall be transmitted to the commissioners of stamps and taxes within the time herein limited; or in default thereof such appointments shall be made by the Treasury: Provided always that where no such appointment as last mentioned shall be made before the expiration of the time limited by this Act, the commissioners for executing this Act in relation to the duties on lands and tenements shall, in their several districts, on due notice of such default in the manner herein directed, also execute this Act in relation to the duties on such offices or employments of profit exercised within the same districts respectively; and the want of notification of any such appointment to the commissioners of stamps and taxes in due time shall be deemed full proof of default in making such appointment.

32. Commissioners for the Duties on Offices in Cities and Boroughs, and all other Offices not under the Crown, in Counties, Ridings, &c.—The mayor, aldermen and common council, or the principal officers or members, by whatever name they shall be called, of every corporate city, borough, town, or place, and of every cinque port throughout Great Britain, or any three or more of them, not in any case exceeding seven, shall be commissioners for executing this Act and the powers herein contained

in relation to the public offices or employments of profit in such city, corporation, and cinque port, and in every guild, fraternity, company, or society, whether corporate or not corporate, within such city, corporation, or cinque port; and for all offices or employments of profit (not being public offices or employments of profit under her Majesty) in any county, riding, city, liberty, franchise, town, or place, whether in the appointment of the lieutenant, custos rotulorum, or the justices or magistrates, or commissioners for aids or taxes, or sheriff of such county, riding, city, liberty, franchise, town, or place, or of any trustees or guardians of any trust or fund in such county, riding, city, town, or place, and for all parochial offices in such county, riding, city, town or place, (except corporate offices in cities, corporate towns, boroughs, or places, or offices in cinque ports as aforesaid,) the commissioners for executing this Act in relation to the duties on lands and tenements shall, in their several districts, also execute this Act in relation to the said duties on offices in such county, riding, city, liberty, franchise, town, or place; and such respective commissioners shall and may exercise any of the powers contained in this Act in relation to any of the duties herein mentioned for causing due returns to be made from the respective officers within their respective jurisdictions, and for compelling the assessors to make their assessments and return the same, and for the due collection of and accounting for the said duties, and may act therein in all respects as fully and effectually as any other commissioners are hereby empowered to act in relation to the said other duties; provided the monies collected of the said duties under the respective commissioners acting for such offices in corporate cities, boroughs, towns, or places aforesaid, or in the cinque ports, or in the several counties, ridings, divisions, cities, liberties, franchises, towns, and places, shall be paid to the proper officer for the receipt for the county, riding, shire, or stewartry, and not otherwise, and the like duplicates shall be delivered of such last-mentioned duties as in other cases where the same are directed to be paid in like manner.

S. 32 *rep.* 39 & 40 *Vict. c.* 16, *s.* 9, *but revived* 40 & 41 *Vict. c.* 13, *s.* 7.

33. Appointment of Commissioners to be notified to the Stamp and Tax Office —In default of such notification the appointment to devolve on the Treasury, and the Commissioners of the District, &c.—Commissioners appointed may continue to act.—The appointment of commissioners for executing this Act in relation to the duties on offices and employments of profit as aforesaid shall be notified to the commissioners of stamps and taxes, within one calendar month after the passing of this Act, with respect to the first assessment under the same, and within one calendar month after the fifth day of April in any future year; and in default thereof the appointment of such commissioners shall devolve on the Treasury and on the commissioners of the district in succession as aforesaid: Provided always that such appointment by the Treasury shall take place within one calendar month after the notification of such default as aforesaid from the commissioners of stamps and taxes; and in case of no appointment as last aforesaid notified to the commissioners of stamps and taxes in like manner, the execution of this Act shall devolve on the commissioners appointed for the district in relation to the duties on lands, tenements, and hereditaments; and every such appointment shall be until other commissioners shall be appointed, and may be renewed annually on or before the fifth day of April in each year during the continuance of this Act: Provided always, that the commissioners so to be appointed may continue to act from year to year, so long as they are respectively willing to act, without any new appointment, unless it shall be deemed expedient under the powers of this Act that any department for which commissioners have been appointed should be assessed under the commissioners of any other department.

34. Commissioners for the Duties on Pensions and Stipends payable by her Majesty, &c.—For the better execution of this Act, so far as the same relates to the duties hereby granted on pensions or stipends payable by her Majesty, or out of the public revenue, contained in schedule (E.), and for the ordering, raising, levying, and paying of the duties hereby made payable thereon in cases not otherwise provided for by this Act, the paymasters of civil services and such other persons as the Treasury shall appoint shall be commissioners for executing this Act and all the powers herein contained in relation to the said last-mentioned duties, or shall respectively appoint commissioners from and amongst the officers of those departments for such purposes.

35. Commissioners entitled to Certificates exempting them from Parish and

Ward Offices.—Every person acting as a commissioner as aforesaid in the execution of this Act shall on request be entitled unto a certificate thereof under the hands of the commissioners of stamps and taxes, which certificate shall continue in force so long only as such person shall continue to act as such commissioner, and shall be revocable by the Treasury, by any instrument in writing, when it shall appear to them that such person hath neglected to perform his duty as such commissioner; and the person to whom such certificate shall have been granted shall, during the continuance thereof in force, be discharged of and from all parish and ward offices within the parish or ward wherein such person shall dwell, . . . which said certificate shall be enrolled by the clerk of the peace of the county or city in which the same shall be granted, for which enrolment the said clerk of the peace shall have for his fee the sum of one shilling, and no more; and the said clerk of the peace shall cause every certificate revoked in manner aforesaid to be taken off the roll on notice thereof to be given to him by the commissioners of stamps and taxes.

S. 35 *in part rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*).

36. Appointment of Assessors and Collectors.—In England the commissioners for general purposes may appoint assessors and collectors for the duties granted by this Act in like manner as assessors and collectors may be appointed under the said Acts relating to the duties of assessed taxes; and in Scotland the said commissioners for general purposes may in like manner appoint assessors for the said duties hereby granted; and the same persons who now are or may be appointed collectors or officers for collecting and receiving the land tax and assessed taxes in Scotland under the authority of the Act in that behalf made, and none other, shall be collectors and receivers of the duties granted by this Act.

37. Officers for Receipt of Land Tax and Assessed Taxes, and the Inspectors and Surveyors of Assessed Taxes, to act in the execution of this Act—Commissioners, &c. to have the like powers as Commissioners, &c. under the Acts relating to Assessed Taxes.—The officers for receipt of the land tax and assessed taxes appointed or to be appointed by the Treasury, or by the commissioners of stamps and taxes, and the inspectors and surveyors appointed or to be appointed in like manner for the duties of assessed taxes, shall be respectively officers for receipt and inspectors and surveyors of the duties granted by this Act; and the said commissioners for general purposes, and the said additional commissioners acting in the execution of this Act, and the said assessors and collectors to be appointed as herein mentioned, and the said officers of receipt, and inspectors and surveyors respectively, shall be and they are hereby respectively empowered and required to do all things necessary for putting this Act in execution with relation to the said duties hereby granted, in the like and in as full and ample a manner as any commissioners, assessors, collectors, officers for receipt, surveyors, or inspectors are authorized to put in execution the said Acts relating to the said duties of assessed taxes, or any matter or thing therein contained, as well with respect to all acts, matters, and things to be done by, under, or before the said additional commissioners, or by, under, or before the commissioners for general purposes in their respective districts or departments, as by, under, and before the said commissioners for special purposes.

38. Commissioners, &c. to take the Oaths in Schedule (F.).—Every person appointed a commissioner either for general or special purposes, or an additional commissioner, or an assessor or collector, or a clerk or clerk's assistant to the said respective commissioners, and every inspector, surveyor, and officer for receipt, shall, before he shall begin to act in the execution of this Act, so far as relates to the duties contained in schedule (D.), take the oath prescribed by this Act, and contained in the schedule marked (F.) applicable to such officers respectively; which oath any one of the persons appointed a commissioner either for general or special purposes as aforesaid, or an additional commissioner, is hereby authorized to administer, (except that every such oath so to be administered to any commissioner for general or special purposes as aforesaid, or to an additional commissioner, shall be administered by a commissioner for such general or special purposes and not otherwise,) and which oath so taken shall be subscribed by the party taking the same; and if any person shall act as a commissioner in relation to the duties in schedule (D.), except in administering the oath therein mentioned, or shall act as a clerk or clerk's assistant, or an assessor, collector, inspector,

surveyor, or officer for receipt, in relation to the duties contained in the said schedule (D.), before he shall have taken the oath herein required to be taken by such officer respectively, he shall forfeit the sum of one hundred pounds.

39. Temporary Absentees to be charged as Residents—Temporary Residents for less than six months in one year not to be charged in respect of Profits received from abroad, &c.—Persons departing after claiming Exemption, and returning within the year, to be charged.—Any subject of her Majesty whose ordinary residence shall have been in Great Britain, and who shall have departed from Great Britain and gone into any parts beyond the seas for the purpose only of occasional residence, at the time of the execution of this Act, shall be deemed, notwithstanding such temporary absence, a person chargeable to the duties granted by this Act as a person actually residing in Great Britain, and shall be assessed and charged accordingly (in manner herein-after directed) upon the whole amount of his profits or gains, whether the same shall arise from property in Great Britain or elsewhere, or from any allowance, annuity, or stipend, (except as herein is excepted,) or from any profession, employment, trade or vocation, in Great Britain or elsewhere: Provided always, that no person who shall on or after the passing of this Act actually be in Great Britain for some temporary purpose only, and not with any view or intent of establishing his residence therein, and who shall not actually have resided in Great Britain at one time or several times for a period equal in the whole to six months in any one year shall be charged with the said duties mentioned in schedule (D.) as a person residing in Great Britain, in respect of the profits or gains received from or out of any possessions in . . . any other of her Majesty's dominions, or any foreign possessions, or from securities in . . . any other of her Majesty's dominions, or foreign securities; but nevertheless every such person shall, after such residence in Great Britain for such space of time as aforesaid, be chargeable to the said duties for the year commencing on the sixth day of April preceding: Provided also, that any person who shall depart from Great Britain after claiming such exemption, and shall again return to Great Britain on or before claiming such exemption, and shall again return to Great Britain on or before the fifth day of April next after such claim made, shall be chargeable to the said duties as a person residing in Great Britain for the whole of the year in which such claim shall have been made.

S. 39 *in part rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*).

40. Corporations and Societies to be charged with Duties, and their Officers to do all acts requisite for Assessment.—All bodies, politic, corporate, or collegiate, companies, fraternities, fellowships, or societies of persons, whether corporate or not corporate, shall be chargeable with such and the like duties as any person will under and by virtue of this Act be chargeable with; and the chamberlain or other officer acting as treasurer, auditor, or receiver for the time being of every such corporation, company, fraternity, fellowship, or society shall be answerable for doing all such acts, matters, and things as shall be required to be done by virtue of this Act, in order to the assessing such bodies corporate, companies, fraternities, fellowships, or societies to the duties granted by this Act, and paying the same.

41. Trustees and Guardians of incapacitated persons to be charged—Non-residents to be charged in the names of their Trustees, Factors, or Agents.—The trustee, guardian, tutor, curator, or committee of any person being an infant or married woman, lunatic, idiot, or insane, and having the direction, control, or management of the property or concern of such infant, married woman, lunatic, idiot, or insane person, whether such infant, married woman, lunatic, idiot, or insane person shall reside in Great Britain or not, shall be chargeable to the said duties in like manner and to the same amount as would be charged if such infant were of full age, or such married woman were sole, or such lunatic, idiot, or insane person were capable of acting for himself; and any person not resident in Great Britain, whether a subject of her Majesty or not, shall be chargeable in the name of such trustee, guardian, tutor, curator, or committee, or of any factor, agent, or receiver, having the receipt of any profits or gains arising as herein mentioned and belonging to such person, in the like manner and to the like amount as would be charged if such person were resident in Great Britain, and in the actual receipt thereof; and every such trustee, guardian, tutor, curator, committee, agent or receiver shall be answerable for the doing of all such acts, matters, and things

as shall be required to be done by virtue of this Act in order to the assessing of any such person to the duties granted by this Act, and paying the same.

42. Trustees or Agents in certain cases need not do more than deliver lists of names and residences of persons entitled to the Trust Property.—Provided always, that no trustee who shall have authorized the receipt of the profits arising from trust property by the person entitled thereunto, or by the agent of such last-mentioned person, and which person shall actually receive the same under such authority, nor any agent or receiver of any person being of full age, and resident in Great Britain, (other than a married woman, lunatic, idiot, and insane person,) who shall return a list in the manner herein-after required of the name and residence of such person, shall be required to do any other act for the purpose of assessing such person, unless the commissioners acting in the execution of this Act in respect of the assessment to be made on such person shall require the testimony of such trustee, agent, or receiver, in pursuance of the powers and authorities by this Act given.

43. Receivers of Trust Property appointed by the Court of Chancery or other Courts chargeable.—The receiver appointed by the Court of Chancery, or by any other court in Great Britain, having the direction and control of any property in respect whereof a duty is charged by this Act, whether the title of such property shall be uncertain or not, or subject to any contingency or not, or be depending or be not ascertained by reason of any dispute or other cause, shall be chargeable to the said duties in like manner and to the like amount as would be charged if the said property was not under the direction and control of such court, and a title thereto was certain, and not subject to any contingency whatever; and every such receiver shall be answerable for doing all such matters and things as shall be required to be done by virtue of this Act, in order to the assessing of the duties granted by this Act, and paying the same.

44. Trustees, Agents, Receivers, and Officers may retain the Duties charged upon them out of Trust Monies.—Where any person, being trustee, agent, factor, or receiver, guardian, tutor, curator, or committee of or for any person, shall be assessed under this Act in respect of such person, or where any chamberlain, treasurer, clerk, or other officer of any corporation, company, fraternity, or society shall be so assessed in respect of such corporation, company, fraternity, or society as aforesaid, it shall be lawful for every such person who shall be so assessed, by and out of the money which shall come to his hands as such trustee, agent, factor, or receiver, guardian, tutor, committee, or curator as aforesaid, or as such chamberlain, treasurer, clerk, or other officer, to retain so much and such part thereof from time to time as shall be sufficient to pay such assessment; and every such trustee, agent, factor, or receiver, guardian, tutor, committee, or curator, chamberlain, treasurer, clerk, or other officer shall be and is hereby indemnified against every person, corporation, company, fraternity, or society whatsoever, for all payments which he shall make in pursuance and by virtue of this Act.

45. Married Women sole Traders, or having separate Property chargeable.—Any married woman acting as a sole trader by the custom of any city or place, or otherwise, or having or being entitled to any property or profits to her sole or separate use, shall be chargeable to such and the like duties, and in like manner, except as herein-after is mentioned, as if she were actually sole and unmarried: Provided always, that the profits of any married woman living with her husband shall be deemed the profits of the husband, and the same shall be charged in the name of the husband, and not in her name, or of her trustee: Provided also, that any married woman living in Great Britain separate from her husband, whether such husband shall be temporarily absent from her or from Great Britain, or otherwise, who shall receive any allowance or remittance from property out of Great Britain shall be charged as a feme sole if entitled thereto in her own right, and as the agent of the husband if she receive the same from or through him, or from his property or on his credit.

46. Commissioners to summon Assessors; to administer Oaths to them and deliver to them their Instructions—Assessors to serve Notices and Precepts.—For the ordering, raising, and levying the said duties the respective commissioners for general purposes at the first meeting to be held under this Act, or at a meeting to be appointed for that purpose, shall direct their precepts to such person as shall have been appointed assessors for the execution of this Act, or, in case no such appointment shall have been made, then to the assessors for the land tax or the duties of assessed taxes in their respective districts, requiring them to appear before the said commissioners at such

time and place as they shall appoint; and on the appearance of such assessors the said commissioners shall administer to them the oath required by this Act to be taken by them, and issue to them their warrants of appointment as assessors in the execution of this Act, signed by such commissioners, together with such instructions duly filled up as shall be necessary for carrying this Act into execution; and the said assessors shall duly serve and deliver, in the respective parishes or places for which they may be appointed, as well the notices herein-after particularly directed to be served by them, as also all other notices and precepts, by whomsoever signed, which are or may be directed or required to be given by or in pursuance of this Act; and the said assessors shall duly verify the service of all such notices and precepts.

47. Assessors to fix General Notices on Church Doors requiring persons to deliver Lists.—The assessors to be appointed to execute this Act shall, within the time and in the manner directed by the precept of the commissioners for general purposes, cause general notices to be affixed on or near to the door of the church or chapel and market house or cross (if any) of the city, town, parish, or place for which such assessors act; and if such city, town, parish, or place shall not have a church or chapel, or market house or cross, then on the church or chapel nearest to such city, town, parish, or place, requiring all persons who are by this Act required to make out and deliver any list, declaration, or statement to make out and deliver to the respective assessors or commissioners, or to their clerk, at their respective offices to be described in such notice, and as therein directed, all such lists, declarations, and statements accordingly, within such time as shall be limited by such precept, and which shall not in any case be later than twenty-one days from the date of such precept; and such general notices shall, when the same shall be affixed as aforesaid, be deemed sufficient notice to all persons resident in such city, town, parish, or place, and the affixing of the same in manner aforesaid shall be deemed good service of such notice; and the said respective assessors shall cause the said notices to be from time to time replaced, if necessary, for the space of ten days before the time required for the delivery of such lists, declarations, and statements as aforesaid; and every person wilfully tearing, defacing, or obliterating any such notice so affixed shall forfeit any sum not exceeding twenty pounds.

48. Assessors to deliver Notices at the Houses of persons chargeable, who are to deliver Statement, &c.—Provided always, that the said assessors shall, within the time directed by the precept of the said commissioners, give notice to every person chargeable to the said duties in respect of any property or profits situate or arising within the limits of the said places where such assessors shall act, or leave such notice at his dwelling house or place of residence, or on the premises to be charged by such assessment within such limits, requiring every such person to prepare and deliver, in manner directed by this Act, all such lists, declarations, and statements as they are respectively required to do by this Act, within such time as shall be limited by such precept; and if any person residing within any parish or place at the time such general notice as aforesaid shall be given, or to whom such notice shall be personally given, or at whose dwelling house or place of residence the same shall be left, or if any person occupying any property or engaged in any concern within such limits, on whom such notice shall be served in manner aforesaid or for whom such notice shall be left on the premises to be charged as aforesaid, after notice thereof, shall refuse or neglect to make out such lists, declarations, or statements as may be applicable to such person and as the case may require, and deliver the same in manner directed by this Act, within the time limited in such notice, then such commissioners shall forthwith issue a summons under their hands to such person making default as aforesaid, in order that the penalty for such refusal or neglect may be duly levied; and the said commissioners shall moreover proceed to assess or cause to be assessed every person making such default in the manner herein directed.

49. Lists and Statements, where to be delivered.—Every such list, declaration, or statement of the profits to be charged as aforesaid, shall be delivered to the assessor of the same parish or place, except statements containing the amount of profits chargeable under schedule (D.) of this Act, in such cases where the commissioners acting for such parish or place shall have caused to be inserted in the notice that an office is opened for the receipt of statements of profits, and a proper person appointed to receive the same, and the time and place of attendance, in which cases the delivery of such statements to be charged under the said schedule (D.) shall be made at such office to

the person there appointed to receive the same: Provided always, that in cases where the parties to be charged under the said schedule (D.) shall give notice of their desire to be assessed for the said duties by the commissioners for special purposes, such statements of profits chargeable under the said schedule (D.) shall be delivered, together with such notice, to such assessor as aforesaid, to be by him transmitted to the inspector or surveyor of the district.

50. Persons to deliver in Lists of the names of Lodgers, Inmates, and Persons in their Employ—Omission of persons not resident in their Dwelling Houses, if exempted from Duty, not subject to Penalty.—Every person when required so to do by any notice given in pursuance of this Act, shall, within the period to be mentioned in such notice, prepare and deliver to the assessor of the parish or place where such person shall reside a list in writing, containing to the best of his belief the proper name of every lodger or inmate resident in his dwelling house, and of other persons chiefly employed in his service, whether resident in such dwelling house or not, and the place of residence of such of them as are not resident in such dwelling house, and also of any such lodger or inmate who shall have any ordinary place of residence elsewhere, at which he is entitled, under the regulations of this Act, to be assessed, who shall be desirous of being so assessed at such place of ordinary residence; which lists shall be signed by the respective parties delivering the same, and shall severally be made out in such form as shall be directed under the authority of this Act: Provided always, that no person required by this Act to deliver a list of lodgers, inmates, or other persons aforesaid shall be liable to the penalties herein-after mentioned, or either of them, for any omission of the name or residence of any person in his service or employ and not resident in his dwelling house, if it shall appear to the commissioners for executing this Act, on inquiry before them, that such person is entitled to be exempted from the payment of all and every the duties hereby granted.

51. Persons receiving Money for others to deliver Lists in order to the Duty being duly charged.—Every person who shall be in receipt of any money or value, or the profits or gains arising from any of the sources mentioned in this Act of or belonging to any other person, in whatever character the same shall be received, for which such other person is chargeable under the regulations of this Act, or would be so chargeable if he were resident in Great Britain, shall within the like period prepare and deliver, in manner before directed, a list in writing, in such form as this Act requires, signed by him, containing a true and correct statement of all such money value, profits, or gains, and the name and place of abode of every person to whom the same shall belong, together with a declaration whether such person is of full age, or a married woman living with her husband, or a married woman for whose payment of the duty hereby charged on her the husband is not accountable by this Act, or resident in Great Britain, or an infant, idiot, lunatic, or insane person, in order that such person, according to a statement, to be delivered as herein mentioned, may be charged either in the name of the person delivering such list, if the same shall be so chargeable, or in the name of the person to whom such property shall belong, if of full age, and resident in Great Britain, and the same be so chargeable by this Act; and every person acting in such character jointly with any other person shall deliver a list of the names and places of abode of every person joined with him at the time of delivering such list, and to the same person to whom such list shall be delivered.

52. Statements to be delivered of the Annual Value of Property and Amounts of Profits.—Every person chargeable under this Act shall, when required so to do, whether by any general or particular notice given in pursuance of this Act, within the period to be mentioned in such notice as aforesaid, prepare and deliver to the person appointed to receive the same, and to whom the same ought to be delivered, a true and correct statement in writing, in such form as this Act requires, and signed by the person delivering the same, containing the annual value of all lands and tenements in his occupation, whether the same be situate in one or more parish or parishes, and the amount of the profits or gains arising to such person from all and every the sources chargeable under this Act, according to the respective schedules thereof, which amount shall be estimated for the period and according to the respective rules contained in the respective schedules of this Act; to which statement shall be added a declaration, that the same is estimated on all the sources contained in the said several schedules, describing the same, after setting against or deducting from such profits or gains such sums,

and no other, as are allowed by this Act; and every such statement shall be made exclusive of the profits and gains accrued or accruing from interest of money or other annual payment arising out of the property of any other person, for which such other person ought to be charged by virtue of this Act.

53. Trustees and Agents of persons incapacitated or not resident in Great Britain to deliver Statements.—Every person who shall act in any character as aforesaid for any other person, who by reason of any such incapacity as aforesaid, or by reason of his not being resident in Great Britain, cannot be personally charged by virtue of this Act, shall also, within the like period, deliver to the person appointed to receive the same under this Act, and to whom the same ought to be delivered, and in the same district in which the person delivering such list ought to be charged on his own account, a true and correct statement in writing, signed by him, and to be made in such form as this Act requires, of the amount of the profits and gains to be charged on him on account of such other person, estimated during the period and according to the rules contained in the said respective schedules, together with such declaration of the manner of estimating the same as aforesaid: Provided always, that where two or more such persons shall be liable to be charged for the same person, one return only shall be required; and such return shall be made by them jointly or by one or more of them on behalf of himself or themselves and the rest of the persons so liable; and it shall be lawful for them to give notice in writing to the commissioners acting in each district where they shall be called upon for such statement, in what parish or place, or parishes or places, they are respectively chargeable by this Act on their own account, and in which of the said parishes or places they are desirous of being so charged on the behalf of such other person for whom they so act in any of the characters before mentioned, and they shall be assessed accordingly by one assessment in such parish or place, provided any one of such persons shall be liable to be charged on his own account in such parish or place; and if more than one assessment shall be made on such persons, or any of them, on the same account, relief shall be granted from such double assessment by like applications to the commissioners as are allowed in other cases by this Act.

54. Officers of Corporations to prepare Statements of Profits and Gains to be charged, estimated on the Annual Profits before Dividend made.—Every such officer before described of any corporation, fraternity, fellowship, company, or society, shall also, within the like period, prepare and deliver in like form and manner a true and correct statement of the profits and gains to be charged on such corporation, fraternity, fellowship, company, or society, computed according to the directions of this Act, together with such declaration of the manner of estimating the same as aforesaid; and such estimate shall be made on the amount of the annual profits and gains of such corporation, fraternity, fellowship, company, or society, before any dividend shall have been made thereof to any other persons, corporations, or companies having any share, right, or title in or to such profits or gains; and all such other persons and corporations or companies shall allow out of such dividends a proportionate deduction in respect of the duty so charged: Provided always, that nothing herein-before contained shall be construed to require in such statement the inclusion of salaries, wages, or profits of any officer of such corporation, fraternity, fellowship, company, or society, otherwise chargeable under this Act: . . . . . .

S. 54 *in part rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*).

55. Penalty on persons neglecting to deliver Lists or Statements; if on Information before Commissioners, L.20 and Treble Duty; if on Action or Information in a Court of Law, L.50.—If any person who ought by this Act to deliver any list, declaration, or statement as aforesaid, shall refuse or neglect so to do within the time limited in such notice, or shall under any pretence wilfully delay the delivery thereof, and if information thereof shall be given, and the proceedings thereupon shall be had before the Commissioners acting in the execution of this Act, every such person shall forfeit any sum not exceeding twenty pounds and treble the duty at which such person ought to be charged by virtue of this Act, such penalty to be recovered as any penalty contained in this Act is by law recoverable, and the increased duty to be added to the assessment, but nevertheless, subject to such stay of prosecution or other proceedings by a subsequent delivery of such list, declaration, or statement in the case following; (that is to say,) if any trustee, agent, or receiver, or other person hereby

required to deliver such list, declaration, or statement on behalf of any other person, shall deliver an imperfect list, declaration, or statement, declaring himself unable to give a more perfect list, declaration, or statement, with the reasons for such inability, and the said commissioners shall be satisfied therewith, the said trustee, agent or receiver, or other person as aforesaid, shall not be liable to such penalty in case the commissioners shall grant further time for the delivery thereof, and such trustee, agent, receiver, or other person shall, within the time so granted, deliver a list, declaration, or schedule, as perfect as the nature of the case will enable him to prepare and deliver; and every person who shall be prosecuted for any such offence by action or information in any of her Majesty's courts, and who shall not have been assessed in treble the duty as aforesaid, shall forfeit the sum of fifty pounds.

56. Persons to whom Notices have not been delivered not liable to Penalty if exempt.—Provided always, that no person to or on whom the assessor shall not have delivered or served a particular notice as aforesaid, shall be liable to the penalties before mentioned, or either of them, for not delivering such statement as before required, if it shall appear to the commissioners for executing this Act, on inquiry before them, that such person is entitled to be exempted from the payment of all and every the duties hereby granted.

57. Assessors to make out a List of the persons on whom Notices have been served—Inspector or Surveyor may serve notice on persons omitted.—The assessor shall make out an alphabetical list and deliver the same to the inspector or surveyor of the district, containing the names of all persons to or on whom such notices have been delivered or served in pursuance of this Act, and the names of all persons having property or profits chargeable under this Act, within the limits of such assessor, distinguishing the persons who have duly made their returns, and the persons who have omitted to make such returns, and the persons who have given notice to be assessed by the commissioners for special purposes, and also the persons who shall have been returned as lodgers or inmates within such limits, or as chargeable within but having a residence out of such limits; and if such assessor shall have neglected to give notice to any person to whom the same ought to be delivered, the inspector or surveyor may at any time afterwards cause such notice to be delivered to or served on such person, and may also from time to time cause the like notice to be delivered to or served on any person coming to reside in any parish or place after the expiration of such notices.

58. Assessors to verify the delivery of Notices and the affixing of General Notices—Penalty, not exceeding L.20.—The assessor for every parish or place shall personally appear before the said commissioners at such meeting as the said assessor shall be appointed to attend, and shall then and there make oath before the said commissioners that the several notices required to be delivered to householders and occupiers, and also to lodgers and inmates, by this Act, have been duly served in the manner required by this Act, to the best of his knowledge, and that general notices to the effect mentioned in this Act have been duly affixed, in the manner hereby required on such proper places within the city, town, or place for which such assessor shall act, as by this Act is required, and that the list delivered by him to the inspector or surveyor contains the name of every person to or on whom such notices ought to be delivered or served according to the directions of this Act within the knowledge of such assessor; and every assessor who shall neglect to appear before such commissioners, or refuse to make such oath, or who shall have omitted or neglected to return to such inspector or surveyor the name of any person whose name ought to be included in any such list as by this Act is required, shall forfeit any sum not exceeding twenty pounds.

59. Abstract to be made by the Clerks of Returns of Statements delivered to Commissioners—Inspectors may have access to and take copies from Books containing such Abstracts.—The clerks to the said respective commissioners shall with all convenient speed abstract the return of statements delivered to such commissioners by the assessors, or at their office by the respective parties, into books to be provided for that purpose, and according to such forms as shall be transmitted to them from the head office for stamps and taxes, such abstracts to contain the names of the persons making such returns, and the several amounts of profits returned by them respectively, to be laid before and delivered to the said commissioners; and all such returns shall be numbered and filed in the office of the said commissioners, and carefully kept so long as the accounts of the said duties for such district, or any part thereof, shall remain unpaid

to Her Majesty; to all which books any inspector or surveyor who shall have taken the oath herein prescribed before the commissioners acting for the same districts respectively shall have free access at all seasonable times, and shall take such copies thereof or of such parts thereof, or extracts from the same, as he shall deem necessary in order to the due execution of this Act.

60. Duties in Schedule (A.) to be charged under the following Rules.—The duties hereby granted and contained in the said schedule marked (A.) shall be assessed and charged under the following rules; which rules shall be deemed and construed to be a part of this Act, and to refer to the said duties, as if the same had been inserted under a special enactment.

Schedule (A.)

No. I.—General Rule for estimating Lands, Tenements, Hereditaments, or Heritages mentioned in Schedule (A.).

Annual Value to be ascertained by this Rule, except as after stated.—The annual value of lands, tenements, hereditaments, or heritages charged under schedule (A.) shall be understood to be the rent by the year at which the same are let at rackrent, if the amount of such rent shall have been fixed by agreement commencing within the period of seven years preceding the fifth day of April next before the time of making the assessment, but if the same are not so let at rackrent, then at the rackrent at which the same are worth to be let by the year, which rule shall be construed to extend to all lands, tenements, and hereditaments, or heritages, capable of actual occupation, of whatever nature, and for whatever purpose occupied or enjoyed, and of whatever value, except the properties mentioned in No. II. and No. III. of this schedule.

No. II.—Rules for estimating the Lands, Tenements, Hereditaments, or Heritages herein mentioned which are not to be charged according to the preceding General Rule.

Manner of charging certain Properties, &c.—The annual value of all the properties herein-after described shall be understood to be the full amount for one year, or the average amount for one year, of the profits received therefrom within the respective times herein limited:

First. Tithes in kind.—Of all tithes, if taken in kind, on an average of the three preceding years:

Second. Ecclesiastical Dues.—Of all dues and money payments in right of the church or by endowment, or in lieu of tithes (not being tithes arising from lands), and of all teinds arising in Scotland, on the like average:

Third. Tithes compounded.—Of all tithes arising from lands, if compounded for, and of all rents and other money payments in lieu of tithes arising from lands (except rent charges confirmed under the Act passed for the commutation of tithes), on the amount of such composition, rent, or payment for one year preceding:

The said duty in each case to be charged on the person entitled to such tithes or payments, or his lessee or tenant, agent or factor, except in the cases mentioned in the fourth rule of No. IV. of schedule (A.):

Fourth. Manors.—Of manors and other royalties, including all dues and other services or other casual profits (not being rents or other annual payments reserved or charged), on an average of the seven preceding years, to be charged on the lord of such manor or royalty, or person renting the same:

Fifth. Fines.—Of all fines received in consideration of any demise of lands or tenements (not being parcel of a manor or royalty demisable by the custom thereof), on the amount so received within the year preceding by or on account of the party; provided that in case the party chargeable shall prove, to the satisfaction of the commissioners for general purposes in the district, that such fines, or any part thereof, have been applied as productive capital, on which a profit has arisen or will arise otherwise chargeable under this Act, for the year in which the assessment shall be made, it shall be lawful for the said commissioners to discharge the amount so applied from the profits liable to assessment under this rule:

Sixth. Other Profits from Lands not in the occupation of the party to be charged.—Of all other profits arising from lands, tenements, hereditaments, or heritages, not in the actual possession or occupation of the party to be charged, and not before enumerated, on a fair and just average of such number of years as the said commissioners shall, on the statements of the party to be charged, judge proper, (except such profits as may be liable to deduction in pursuance of the ninth or tenth rule in Number IV. herein-after mentioned,) to be charged on the receivers of such profits, or the persons entitled thereto.

No. III.—Rules for estimating the Lands, Tenements, Hereditaments, or Heritages herein-after mentioned which are not to be charged according to the preceding General Rule.

Manner of charging certain other Properties.—The annual value of all the properties herein-after described shall be understood to be the full amount for one year, or the average amount for one year, of the profits received therefrom within the respective times herein limited:

First. Quarries.—Of quarries of stone, slate, limestone, or chalk, on the amount of profits in the preceding year.

Second. Mines.—Of mines of coal, tin, lead, copper, mundic, iron, and other mines, on an average of the five preceding years, subject to the provisions concerning mines contained in this Act:

Third. Ironworks, &c.—Of ironworks, gasworks, salt springs or works, alum mines or works, waterworks, streams of water, canals, inland navigations, docks, drains, and levels, fishings, rights of markets and fairs, tolls, railways and other ways, bridges, ferries, and other concerns of the like nature, from or arising out of any lands, tenements, hereditaments, or heritages, on the profits of the year preceding:

Duty in last three Rules how to be charged.—The duty in each of the last three rules to be charged on the person, corporation, company, or society of persons, whether corporate or not corporate, carrying on the concern, or on their respective agents, treasurers, or other officers having the direction or management thereof, or being in the receipt of the profits thereof, on the amount of the produce or value thereof, and before paying, rendering, or distributing the produce or the value, either between the different persons or members of the corporation, company, or society engaged in the concern, or to the owner of the soil or property, or to any creditor or other person whatever having a claim on or out of the said profits; and all such persons, corporations, companies, and societies respectively shall allow out of such produce or value a proportionate deduction of the duty so charged, and the said charge shall be made on the said profits exclusively of any lands used or occupied in or about the concern:

Duty on Mines to be charged on the company jointly, but any Adventurer may claim to be charged separately, in order to set off his loss in one concern against his profits in another.—The computation of duty arising in respect of any such mine carried on by a company of adventurers shall be made and stated jointly in one sum; provided that if any adventurer shall declare his proportion or share in such concern, in order to a separate assessment, it shall be lawful to charge such adventurer separately, and nothing herein contained shall be construed to restrain any adventurer so separately assessed from deducting or setting against his profits acquired in one or more of such concerns his loss sustained in any other of the said concerns, over and above the profits thereof, provided that such loss shall not exceed the proportion of such adventurer which shall have been duly proved by the company in their computation of duty and shall have been allowed by the respective commissioners; and in every such case one assessment only shall be made on the balance of such profit and loss of the adventurer so separating his account in the parish or place where such adventurer shall be chargeable to the greatest amount; and the amount of each person's share so proved and allowed shall be deducted from the general assessment of the company or companies to which such adventurer shall belong, and the respective commissioners shall cause the assessments on the said companies to be rectified as the case may require; and the certificate of the commissioners making such separate assessment shall be an authority to the commissioners acting in another district to cause the assessments on the respective companies to which such assess-

ment shall belong to be rectified; and in case such loss shall arise in a different district than where such separate assessment shall be to be made, the certificate of the commissioners acting for such other district of the amount of such loss, and the proportion of such adventurer therein, shall be proof of the deduction to be made by the commissioners making such assessment.

No. IV.—Rules and Regulations respecting the said Duties.

First. Properties to be charged in the Parish.—All properties chargeable to the duties in schedule (A.) shall be charged in the parish or place where the same are situate, and not elsewhere, except as herein-after is excepted:

Except Canals, Railways, &c. which are to be charged where the general Accounts are made up.—Duties may be deducted from Interest payable to Creditors.—Provided that the profits arising from canals, inland navigations, streams of water, drains, or levels, or from any railways or other roads or ways of a public nature, and belonging to or vested in any company of proprietors or trustees, whether corporate or not corporate, may be stated in one account, and charged in the city, town, or place at or nearest to the place where the general accounts of such concern shall have been usually made up; and it shall be lawful for the said proprietors or trustees, having paid the duties so chargeable, either to deduct a just proportion thereof from the interest payable to the creditors of the said properties, or any of them, or to pay such interest in full, without making any such deduction; and it shall be lawful for the said creditors to receive such interest in full, and they shall not be liable thereupon to the penalty herein-after contained:

Manors extending into different Parishes, and Fines where they shall be charged.—Provided also, that the profits arising from any manor or royalty which shall extend into different parishes may be assessed in one account in the parish where the court for such manor or royalty shall have been usually held: Provided also, that the profits arising from all fines received by the same person, body politic or corporate, or company, may be assessed on one account, where the person to be charged under the regulations of this Act shall reside:

Second. Lands in the same Occupation to be included in one Account, but to be charged according to the Parishes—Proportion in each Parish and belonging to distinct Owners, to be stated.—All lands occupied by the same person shall be brought into every account thereof required to be delivered by such person under this Act, whether the same shall be occupied by such person as owner or tenant, or as tenant under distinct owners, or shall be situate in the same or in different parishes or districts, but the charge thereon shall be in each parish or district in proportion to the value of the property situate therein, of which proportions the occupier shall be required to deliver an account in each parish wherein any part of such lands is situate, and a separate estimate shall be given of lands in the same occupation belonging to distinct owners; and if any occupier of lands situate in different parishes or places shall wilfully omit to deliver an account of the lands so occupied in each parish or place, although such occupier may not reside in one or more of such parishes or places, he shall be charged for the lands so omitted at treble the rate contained in this Act, over and above the penalty herein imposed:

Lands in different Parishes to be charged in either where the proportion cannot be ascertained.—Provided always, that lands held under the same demise, or in the occupation of the same person as owner, although situate in different parishes, but wholly in the same district of commissioners, may be charged in either parish, at the discretion of the said commissioners, if they shall be satisfied that the proportion in each parish, either in respect of quantity, rent, or value of the said lands, cannot be ascertained; and if the said lands extend into different districts of commissioners, then the assessment shall be made in that district where the occupier of such lands doth reside.

Third. Houses under L.10, &c. charged on Landlords.—For any dwelling house in the occupation of a tenant which, with the buildings or offices belonging thereto and the land occupied therewith, shall be under the annual value of ten pounds, and for all lands and tenements let to any tenant for a less period than one year, the assessment thereupon shall be made on the landlord, but so as not to impeach the remedy of recovery of the duty from the occupier, in default of payment by the landlord.

Fourth. Compositions, &c. for Tithes may be charged on Occupiers of Land.—For any compositions, rents, or other payments in lieu of tithes, the assessment thereupon may, if the commissioners think fit, be made on the respective occupiers of the lands from which such tithes arise, or on the respective persons liable to the payments of such compositions, rents, or other payments; and the said commissioners may direct notices to be delivered to such persons respectively, for the purpose of obtaining returns of the value of such compositions, rents, and payments, subject to the like penalties and under the regulations of this Act for returns of the annual value of lands;

Fifth. Mines failing, how to be charged—If they have failed, the Assessment may be discharged.—If any mine, enumerated in the fifth rule, No. III., of this schedule, has, from some unavoidable cause, been decreased and is decreasing in the annual value thereof, so that the average of five years will not give a fair and just estimate of the annual value thereof, it shall be lawful, after due proof before the commissioners for general purposes in the district where such mine shall be situate, to compute such annual value on the actual amount of such profits and gains in the preceding year ending as aforesaid, subject to such abatement on account of diminution of duty within the current year as is herein provided in other cases; and if any such mine shall, from some unavoidable cause, have wholly failed, it shall be lawful for the said commissioners, on due proof thereof, wholly to discharge any assessment made thereon:

Mines to be charged where situate or Produce manufactured.—Provided always, that whenever any such mine shall be situate or the produce thereof shall be manufactured in any place other than where the produce thereof shall be sold, the profits arising therefrom shall be assessed and charged in the parish and district where the said mine is situate, or where the produce thereof is manufactured, and not elsewhere.

Sixth. Duties in certain cases to be estimated according to Profits accrued since commencement of possession.—If in estimating the value of any of the properties enumerated in No. II. or No. III. of this schedule, as before mentioned, it shall appear that the account required by the said rules cannot be made out by reason of the possession or interest of the party to be charged thereon having commenced within the time for which the account is directed to be made out, the profits of one year shall be estimated in proportion to the profits received within the time elapsed since the commencement of such possession or interest.

Seventh. Houses of Foreign Ministers charged on Landlord.—The duty to be charged under this schedule, in respect of any house or tenement occupied by any accredited minister from any foreign prince or state, shall be charged and paid by the landlord or person immediately entitled to the rent of the said house or tenement:

Eighth. Official Houses charged on the Occupiers.—The duty to be charged in respect of any house, tenement, or apartment belonging to her Majesty, in the occupation of any officer of her Majesty, in right of his office or otherwise, (except apartments in her Majesty's royal palaces,) shall be charged on and paid by the occupier of such house, tenement, or apartment, upon the annual value thereof.

Ninth. Occupiers to deduct the Duty out of the Rent.—The occupier of any lands, tenements, hereditaments, or heritages, being tenant of the same, and paying the said duties, shall deduct so much thereof in respect of the rent payable to the landlord for the time being (all sums allowed by the commissioners being first deducted) as a rate of sevenpence for every twenty shillings thereof would by a just proportion amount unto, which deduction shall be made out of the first payment thereafter to be made on account of rent; and the receivers of her Majesty, and all landlords, both mediate and immediate, their respective heirs, executors, administrators, and assigns, according to their respective interests, and their respective receivers or agents, shall allow such deduction upon receipt of the residue of the rent, under the penalty herein contained; and the tenant paying the said assessment shall be acquitted and discharged of so much money as if the same had actually been paid unto the person to or for whom his rent shall have been due and payable; and the occupier of lands charged on the amount of any composition, rent, or payment for tithes arising therefrom, and paying the said duties, shall be entitled to make the like deduction from such composition, rent, or payment, on paying the same:

Tenth. LANDLORDS, &c. TO DEDUCT THE DUTY OUT OF RENTCHARGES, QUITRENTS, &c.—Where any such lands, tenements, or hereditaments are subject or liable to the payment of any rentcharge, whether under the Act passed for the commutation of tithes, or otherwise, or any annuity, fee-farm rent, rent service, quitrent, feu duty, teind duty, stipends to licensed curates, or other rent or annual payment thereupon reserved or charged, the landlord, owner, or proprietor by whom any deduction shall have been allowed as aforesaid, and the owner or proprietor being also occupier and charged to the said duties, shall deduct and retain out of every such rentcharge, annuity, fee-farm rent, rent service, quitrent, feu duty, teind duty, stipend, or other rent or annual payment aforesaid, so much of the said duties or payments on account of the same, (the just proportion of the sums allowed by the commissioners in the cases authorized by this Act being first deducted,) as a like rate of sevenpence for every twenty shillings on such rentcharge, annuity, fee-farm rent, rent service, quitrent, feu duty, teind duty, or stipend, or other rent or annual payment aforesaid, respectively, shall by a just proportion amount unto; and the receivers of her Majesty, and all persons who shall be anyways entitled unto such rents, duties, stipends, or annual payments, their receivers, deputies, or agents, are hereby required to allow such deduction, upon the receipt of the residue of such monies as shall be due and payable for such rents, duties, or annual payments, without any fee or charge for such allowance, and under the penalty herein contained; and the landlord, owner, proprietor, and occupier respectively being charged as aforesaid, or having allowed such deduction, shall be acquitted and discharged of so much money as if the same had actually been paid unto such person to whom such rentcharge, annuity, fee-farm rent, rent service, quitrent, feu duty, teind duty, stipend, or other rent or annual payment aforesaid, shall have been due and payable:

Eleventh. MORTGAGEES IN POSSESSION LIABLE, AND WHEN NOT IN POSSESSION, SUBJECT TO DEDUCTION.—Where any mortgagee or creditor in any heritable bond or wadset shall be in the possession of the lands, tenements, hereditaments, or heritages mortgaged or secured, such mortgagee or creditor shall be chargeable as occupier when in the actual occupation of the same, and when not in the actual occupation of the same shall be liable to such deduction as any other landlord would be; and upon the settlement of accounts between such mortgagee or other creditor as aforesaid, and the mortgagor or debtor, the duty payable in respect of the amount of the interest payable upon such mortgage or other debt as aforesaid shall be taken and allowed as so much money received by such mortgagee or other creditor as aforesaid on account of such interest:

Twelfth. IN CASE OF OWNER DYING, THE DUTY TO BE PAID BY HIS HEIRS, &c.—Where any lands, tenements, hereditaments, or heritages shall be occupied by the owner at the time the assessment shall be made, who shall die before payment of the duty, the heirs, executors, administrators, or assigns, or other person who on such death may become entitled to the rents and profits thereof, shall be liable to the payment of all arrears of the said duty due at the time of such death, and to all subsequent instalments for that year according to their respective interests, without any new assessment:

Thirteenth. HOUSES DIVIDED INTO DISTINCT PROPERTIES.—Where any house shall be divided into distinct properties, and occupied by distinct owners or their respective tenants, such properties shall be charged distinct on the respective occupiers:

Fourteenth. DEDUCTIONS NOT TO BE ALLOWED UNLESS AUTHORIZED BY THE ACT, AND AN ACCOUNT THEREOF DELIVERED TO THE ASSESSOR.—No deduction from the estimate or assessment on any lands, tenements, hereditaments, or heritages, shall be allowed in any case not authorized by this Act, nor unless an account in writing, signed by the occupier thereof or by the party claiming such deduction, stating the nature and amount thereof, shall have been delivered to the assessor within the time and pursuant to the notice delivered by such assessor; and if any such deduction shall be made or allowed contrary to this Act, or without such account in writing as aforesaid, it shall be lawful for the surveyor or inspector to surcharge the assessment, and to charge therein a sum equal to the amount of duty by which the assessment shall have been diminished on occasion of such deduction, which surcharge shall not be annulled or vacated under any pretence whatever, but shall stand part of the assessment:

No. V.—Particular Deductions and Allowances in respect of the Duties under Schedule (A.).

First. Tenths, &c.—For the amount of the tenths and first fruits, duties, and fees on presentations paid by any ecclesiastical person within the year preceding that in which the assessment shall be made:

Second. Procurations, &c.—For procurations and synodals paid by ecclesiastical persons on an average of seven years preceding that in which the assessment shall be made:

Third. Repairs of Chancels.—For repairs of collegiate churches and chapels, and chancels of churches, or of any college or hall in any of the universities of Great Britain, by any ecclesiastical or collegiate body, rector, vicar, or other person bound to repair the same, on an average of twenty-one years preceding as aforesaid, or as nearly thereto as can be produced:

Fourth. Parochial Rates on Rentcharge for Tithes.—For the parochial rates, taxes, and assessments charged upon or in respect of any rentcharge confirmed under the Act passed for the commutation of tithes, on the amount paid in the year in which the assessment shall be made:

Fifth. Land Tax.—For the amount of the land tax charged on lands, tenements, hereditaments, or heritages under the said Act passed in the thirty-eighth year of the reign of King George the Third, where the charge thereon shall not have been redeemed.

Sixth. Public Rate for Drainage, &c.—For the amount charged on lands, tenements, hereditaments, or heritages by a public rate or assessment in respect of draining, fencing, or embanking the same:

Rate of Deduction.—In all which cases there shall be allowed, (unless such payments or any part thereof shall be made by a tenant,) such sum of money as a like rate of sevenpence for every twenty shillings of the sums paid would by a just proportion amount unto; and the sum so allowed shall be deducted from the assessment to be made on the property charged with such payments, except in the cases herein-after otherwise provided for: (that is to say,)

Allowances to Ecclesiastical Bodies, &c. how to be made.—Provided always, that the allowances to be granted in pursuance of the first, second, or third case may be granted to the ecclesiastical or collegiate body, rector, vicar, or other person aforesaid liable to the charges therein mentioned, in one sum, either by deducting the same from the assessment upon him (if any), or by certificate; provided that no abatement or reduction shall be made from any assessment for the allowances granted in pursuance of any of the cases mentioned in this rule in respect of any such charges or payments as aforesaid, payable out of any rentcharge confirmed under the Act passed for the commutation of tithes, but such allowances shall be granted by certificate in the manner herein-after directed.

61. Mode of proceeding in order to obtain certain Allowances granted under Sched. (A.) No. V.—The person entitled to any of the allowances mentioned in the next preceding rule, which are directed or authorized to be made by certificate, and which shall not have been made by deduction or abatement, from the assessment, shall claim such allowance at any time after the expiration of the year of assessment, before the commissioners for general purposes of the district in which the property charged with the payments and charges mentioned in the said rule shall be situate; and the said commissioners, upon due proof before them that the claimant is entitled to such allowance, shall certify the particulars and amount thereof to the commissioners for special purposes at the head office for stamps and taxes in England; and thereupon the said last-mentioned commissioners shall grant an order for the payment of such allowance, directed to the receiver general of stamps and taxes, or to an officer for receipt or collector of the duties granted by this Act, or to a distributor or sub-distributor of stamps, as may be most convenient for the party entitled to such allowance; and such receiver general or officer as aforesaid is hereby required, on production and delivery to him of such order to pay the amount of such allowance to the party entitled thereto out of any money in the hands of such receiver general or officer arising from any duties placed under the management of the commissioners of stamps and taxes, taking the receipt of the party entitled to such allowance for the same, by endorsement on such order.

No. VI.—Allowances to be made in respect of the said Duties in Schedule (A.)

Allowances for Colleges and Halls in Universities.—For the duties charged on any college or hall in any of the universities of Great Britain, in respect of the public buildings and offices belonging to such college or hall, and not occupied by any individual member thereof, or by any person paying rent for the same, and for the repairs of the public buildings and offices of such college or hall, and the gardens, walks, and grounds for recreation repaired and maintained by the funds of such college or hall:

Hospitals, Public Schools, Almshouses, and Literary Institutions.—Or on any hospital, public school, or almshouse, in respect of the public buildings, offices, and premises belonging to such hospital, public school, or almshouse, and not occupied by any individual officer or the master thereof, whose whole income, however arising, estimated according to the rules and directions of this Act, shall amount to or exceed one hundred and fifty pounds per annum, or by any person paying rent for the same and for the repairs of such hospital, public school, or almshouse, and offices belonging thereto, and of the gardens, walks, and grounds for the sustenance or recreation of the hospitallers, scholars, and almsmen, repaired and maintained by the funds of such hospital, school, or almshouse, or on any building the property of any literary or scientific institution, used solely for the purposes of such institution, and in which no payment is made or demanded for any instruction there afforded, by lectures or otherwise; provided also, that the said building be not occupied by any officer of such institution, nor by any person paying rent for the same:

The said allowances to be granted by the commissioners for general purposes in their respective districts:

Rents of Lands belonging to Hospitals, Public Schools, and Almshouses, or vested in Trustees for Charitable Purposes.—Or on the rents and profits of lands, tenements, hereditaments, or heritages belonging to any hospital, public school, or almshouse, or vested in trustees for charitable purposes, so far as the same are applied to charitable purposes:

The said last-mentioned allowances to be granted on proof before the commissioners for special purposes of the due application of the said rents and profits to charitable purposes only, and in so far as the same shall be applied to charitable purposes only:

The said last-mentioned allowances to be claimed and proved by any steward, agent, or factor acting for such school, hospital, or almshouse, or other trust for charitable purposes, or by any trustee of the same, by affidavit to be taken before any commissioner for executing this Act in the district where such person shall reside, stating the amount of the duties chargeable, and the application thereof, and to be carried into effect by the commissioners for special purposes, and according to the powers vested in such commissioners, without vacating, altering, or impeaching the assessments on or in respect of such properties; which assessments shall be in force and levied notwithstanding such allowances.

62. Special Commissioners to certify Allowances granted under Sched. (A.) No. VI., and order payment thereof.—Where any allowance mentioned in Number VI. of the said schedule (A.) shall be granted by the commissioners for special purposes under the authority of this Act, they shall give a certificate thereof, together with an order for payment of the same, directed to the receiver general of stamps and taxes, or to an officer for receipt or collector of the duties granted by this Act, or to a distributor or sub-distributor of stamps, in the manner herein provided with respect to allowances to be granted under Number V. of the said schedule, and such allowance shall in like manner be paid to the party entitled thereto.

63. Duties in Schedule (B.) to be charged under the following Rules.—The duties hereby granted, contained in the schedule marked (B.), shall be assessed and charged under the following rules, which rules shall be deemed and construed to be a part of this Act, and to refer to the said last-mentioned duties as if the same had been inserted under a special enactment.

SCHEDULE (B.)

No. VII.—RULES for assessing and charging the Properties under Schedule (B.)

DUTIES TO BE CHARGED IN ADDITION TO THE DUTIES UNDER SCHEDULE (A.) ON THE SAME PROPERTIES, EXCEPT DWELLING HOUSES DISTINCT FROM FARMS, AND BUILDINGS OCCUPIED FOR TRADES OR PROFESSIONS.—The duties last before mentioned shall be charged in addition to the duties to be charged under Schedule (A.) on all the properties in this Act directed to be charged to the said duties, according to the general rule in Number I. schedule (A.) before mentioned, on the full amount of the annual value thereof estimated as by this Act is directed (except a dwelling house, and the domestic offices thereunto belonging, and which dwelling house and offices shall not be occupied, by virtue of one and the same demise, with a farm of lands for the purpose of farming such lands, or with a farm of tithes for the purpose of farming the same; and except warehouses or other buildings occupied for the purpose of carrying on a trade or profession); provided that . . . the several properties hereinafter described in Number VIII. shall be assessed and charged in manner therein mentioned.

No. VII. in part rep. 59 & 60 *Vict. c.* 28.

No. VIII.—RULES for estimating the Properties herein-after next mentioned under Schedule (B.)

NURSERIES, MARKET GARDENS, AND HOP GROUNDS.—The profits arising from lands occupied as nurseries or gardens for the sale of the produce, and lands occupied for the growth of hops, shall be estimated according to the rules contained in schedule (D.), and the duty shall be charged at the rate contained in the said schedule; and when the said duty shall have been so ascertained, the same shall be charged under schedule (B.) as profits arising from the occupation of lands; except where the lands so occupied for the growth of hops shall be part of a farm held under one demise, or by the same person as owner, and shall not exceed one tenth part of such farm, in which case the duty thereon under this schedule shall be charged together in one sum as for a farm by the said general rule in schedule (A.) mentioned.

No. IX.—RULES for charging the said Duties under Schedules (A.) and (B.)

First. DUTIES TO BE PAID BY THE OCCUPIER, &c.—The said duties, except where other provisions are made as aforesaid for estimating particular properties, shall be estimated according to the general rule contained in schedule (A.), and shall be charged on and paid by the occupier for the time being, his executors, administrators, and assigns:

Second. WHO SHALL BE DEEMED OCCUPIERS.—Every person having the use of any lands or tenements shall be taken and considered, for the purposes of this Act, as the occupier of such lands or tenements:

Third. ASSESSMENTS TO BE LEVIED ON THE OCCUPIER—HOW PAID ON CHANGE OF OCCUPATION.—The said several duties shall on each assessment thereof be levied on the occupier for the time being without any new assessment, notwithstanding any change in the occupation thereof: Provided that every tenant on quitting the occupation shall be liable for the arrears at the time of so quitting, and for such further portion of time as shall have then elapsed, to be settled and levied by the respective commissioners, and repaid to the occupier by whom the same shall have been paid; and the executors or administrators of any tenant who shall die before the payment of such assessment shall be liable in like manner as the testator or intestate would have been if living: Provided also, that every tenant quitting before the time of making the assessment shall be liable for such portion of the year as shall have elapsed at the time of his so quitting, to be adjusted and settled by the respective commissioners.

No. X.—RULES for estimating the annual Value of Properties before described in Schedules (A.) and (B.) or either of them.

First. TENANT'S RATES AND TAXES PAID BY LANDLORD, &C. TO BE DEDUCTED FROM THE RENT.—Where any landlord shall be subject to any covenant or agreement to pay or satisfy, out of the rent reserved on any lands or tenements, any parochial rates, taxes, or assessments which by law are a charge on the occupier, or any composition for tithes; or where any rector, vicar, or other person entitled to any rent or other annual

payment to be made in lieu of tithes (except a rentcharge confirmed under the Act passed for the commutation of tithes), or any composition for tithes, shall pay or satisfy out of the amount thereof any such parochial rates, taxes, or assessments charged on such tithes, rent, composition, or other annual payment aforesaid, then and in every such case the annual value shall be estimated for the purposes of this Act exclusive of such rates, taxes, or assessments, and of such composition for tithes, to be computed on the amount thereof bonâ fide paid by such landlord or other person aforesaid in and for the year preceding the year of assessment; or where the owner shall be also occupier of such lands or tenements, and shall have paid any parochial rates, taxes, or assessments charged on the same, or any composition for tithes thereon, then the said annual value shall be also estimated exclusive of such rates, taxes, and assessments and composition for tithes, to be computed in like manner as aforesaid:

Second. Landlord's Rates and Taxes paid by Tenant to be added to the Rent.—Where any tenant of lands or tenements shall be subject to any covenant or agreement to pay or satisfy any aids, taxes, rates, or assessments by law chargeable on or payable by the landlord, the amount thereof which shall have been bonâ fide paid by such tenant in and for the year preceding the year of assessment shall, in making the estimate for the purpose of charging the duty in respect of occupation, be added to the rent reserved, in case the same shall have been let within the period of seven preceding years, and, if not so let, the estimate shall be made according to the general rule in schedule (A.), with the like addition thereto of the amount of such payment:

Third. Amount of Rent depending on price of Corn or Grain, &c. how to be ascertained.—Where the amount of rent of lands or tenements reserved in money shall depend in the whole or in part on the price of corn or grain, the estimate for the purpose of charging the duties in schedule (A.) shall be made on the amount payable according to the average prices or fiars fixed in the year preceding the year appointed for payment of the duty, and in the same manner by which such rents have usually been ascertained between the landlords and tenants; but where the whole or a part of the rent shall be reserved in corn or grain, then the said estimate shall be made on the like average price or fiar computed on the quantity of corn or grain delivered or to be delivered in the year appointed for payment of the duty; or where such computation cannot be made, the estimate aforesaid may be made on the annual value of such lands estimated according to the said general rule:

Fourth. Amount of Rent depending on Produce.—Where the amount of rent reserved on lands or tenements shall depend on the actual produce thereof, either in respect of the price or quantity of such produce, the estimate for the purpose of charging the duties in schedule (A.) shall be made on the amount or value of such produce in the year preceding the year appointed for payment of the duty, according to the prices fixed and according to the quantity produced in that year, by the same rules and in the same manner by which such rents have usually been ascertained between the proprietors and their lessees or tenants; and where the prices or fiars shall vary in the two years of assessment, or the amount of produce shall vary in those years, the assessment shall, on appeal or surcharge, be rectified accordingly:

Fifth. In Scotland the Estimate to be made according to the General Rule in Schedule (A.).—Every estimate of such property in Scotland shall be made without reference to the cess or tax roll or valued rents heretofore used in Scotland, or any stent thereon, and shall be made according to the general rule contained in schedule (A.) to the best of the belief and judgment of the commissioners, assessors, and others employed in charging the said several duties.

64. Assessment of Lands and Tenements, how to be made by the Assessor—Rules for Assessment where the Annual Value cannot be otherwise ascertained.—Upon every account of the annual value of the several properties aforesaid to be charged under schedules (A.) and (B.) delivered in manner before directed to the assessor, he shall make an assessment of the said property on the amount of the sum ascertained by such account, if he shall be satisfied with such amount; but if he shall not be satisfied therewith, or if no such account shall have been returned, or if the occupier or other person aforesaid shall not be resident within the limits of the district of such assessor, and no such return shall have been made, then the said assessor shall

estimate, to the best of his judgment, the annual value of the said property of which no sufficient account shall have been delivered, and make an assessment of the same accordingly; and in doing so it shall be lawful for such assessor in every case relating to lands or tenements to be estimated according to the said general rule by the annual value thereof, where such annual value cannot be otherwise ascertained, and he is hereby required in every such case, to make such assessment according to the following rules; (videlicet,)

No. XI.

First. Where the Poor Rate is made on the full Value.—Where the last rate made for the relief of the poor in any parish or place shall be made throughout by a pound rate on the annual value, as the same would be estimated according to Schedule (A.), the assessment thereon to be made under this Act shall be made on the same sums respectively as in such rate:

Second. Where it is made on a proportionate part of the Annual Value.—Where the said rate shall be made throughout by such pound rate on any proportionate part of the annual value as aforesaid, the proportion thereof shall be observed as in the said rate, but the assessment thereon to be made under this Act shall be made at the same sums respectively as they would have been estimated at if the said rate had been made on the full amount of such annual value:

Third. Where it is made according to different proportions.—Where properties of different kinds shall be rated in the said rate according to different proportions of the value thereof as aforesaid, or shall be rated therein at different rates of such value, but nevertheless the properties of the same kind shall be rated in a due proportion to each other, both as to the value and rate of charge, in every such case the rule of rating lands, both as to the value and the rate of charge, shall, in making the assessment under this Act, be observed throughout, as well with respect to such lands as to the other properties therein rated, so far as relates to such rates as shall be made either on the full value of the properties or on any proportionate part thereof:

Fourth. Where the proportions of the Rate are not known, &c.—In all cases not falling within the three preceding rules, but nevertheless where the properties shall appear to the assessor to be rated in the said rate in the same proportion to each other, though the proportion of such rate to the value of the property rated be not known, and the assessor is able to ascertain the rackrent of all or any of the properties which shall have been so let within the period of seven years preceding within the limits of the parish or place where the said assessors shall act, he shall make an estimate of such properties on the amount of such rents respectively, and the amount contained in the estimates so made shall form the basis on which the estimates of other properties, of which the rackrent shall not have been so ascertained, shall be made, and he shall make his estimate of all other property in a sum bearing the same proportion, as near as the same can be computed, to the amount of such first estimates as the sums at which all such other properties of which the rent has been so ascertained are valued at in such rate bear to the sum charged in the said rate on the said properties first estimated; and he shall apportion the sum so estimated on such other properties in the same proportion, as near as the same can be computed, as they are respectively rated at in such rate, and shall make his assessment under this Act accordingly; and in cases where the same rule of proportion shall not have been observed in rating different kinds of property, then the assessor shall make an estimate as above directed upon each of such kinds of property for the purpose of forming a basis on which the estimates of other properties of the same kind may be made.

65. Assessor to estimate Dwelling Houses, &c. under L.10 without a Return.—Provided always, that where any dwelling house or tenement, together with the offices, gardens, and lands occupied therewith, or any lands separately occupied, shall be under the annual value of ten pounds, and the assessor shall be able to estimate the said value, either by the rules before mentioned, or from his own knowledge or otherwise, it shall be lawful for him to estimate such property accordingly, to the best of his judgment, and to make an assessment thereon, without requiring a return of the annual value as aforesaid, unless the surveyor or inspector shall object to such estimate, and shall require a notice for that purpose to be delivered; and if any assessor, not having given such notice, shall neglect to estimate the true annual value of the said properties, and to assess the same according to this Act, he shall forfeit any sum not exceeding ten pounds.

66. Assessors may make their Assessments of Lands let at Rackrent on the production of the Lease by the Tenant, according to the reserved Rent—If such Lease shall be bonâ fide at Rackrent—Rules to be observed in assessing Land let in consideration of a reserved Rent, and of Improvements.—In case any tenant at rackrent shall produce to the assessor the lease or agreement in writing under which he immediately holds any premises to be charged as aforesaid according to the general rule, the production of which lease or agreement every such assessor is hereby authorised to demand whenever the same shall appear to him necessary, and in case it shall appear by such lease or agreement that the same premises shall have been let within the period of seven preceding years, and no other consideration in money than the rent reserved shall be contained in such lease or agreement, it shall be lawful for such assessor to make his assessment according to such rent, anything before contained to the contrary notwithstanding; but such assessment shall not be binding in case it shall appear to the commissioners that the said lease or agreement doth not express the full consideration, whether in money or value, for the demise of the rent bonâ fide paid for the same, or that the rent reserved is less than the rackrent on occasion of repairs or improvements done or to be done by the lessee or assigns, or is made in any other respect with intent to conceal the annual value of such premises, or to diminish the estimate to be made thereon, or hath been assigned to such tenant, or any former tenant, for any consideration in money or value paid or agreed to be paid: Provided always, that regard shall be had to the cases before mentioned, where the amount of the reserved rent shall be increased by reason of any covenant or agreement by the landlord to discharge the tenant's taxes, rates, assessments, or duties before mentioned, or where the same shall be decreased by reason of any covenant or agreement by the tenant to discharge the landlord's taxes, rates, or assessments, or on occasion of any expences incurred or to be incurred by the lessee or assigns, whether mentioned or not mentioned in such lease or agreement and to the deductions to be made on account of any aid or public rate or assessment before described: Provided also, that upon every demise for years of lands made or to be made in consideration of a rent reserved, and also in consideration of certain improvements to be made in the lands demised at the proper cost and charge of the lessee or tenant, if it shall be proved to the satisfaction of the commissioners for general purposes acting for the division where such lands are situate that the rent reserved hath been settled on the estimate of the medium annual value of the said lands, computed on an average for the whole term granted in expectation of the progressive improvement of the said farm at the cost and charge of the said lessee or tenant, and the said annual rent is fixed and made payable to the same amount in each year on the said average, whereby the said rent so estimated and made payable did or doth exceed the just annual value of the said lands as the same were or are worth to be let at rackrent at the commencement of the term granted by the said demise, then and in such case the estimate of the annual value of the said lands, and the assessment thereupon, shall be made and computed according to the following rules; (that is to say,) in regard that the rent reserved hath been settled on a fair average of the annual value of the said lands, computed on the whole of the term so granted, the said commissioners, on due proof of the circumstances before mentioned, shall cause the said duty payable in respect of the property in the said lands to be computed and charged on the amount of the rent so reserved and made payable as aforesaid, for each year of assessment, without variation, during the said term, subject nevertheless to such deductions as by this Act are allowed; and the said commissioners shall also cause the said duty payable in respect of the occupation of the said lands to be computed and charged on the full and just value of the said lands to be ascertained at the times and in manner hereinafter mentioned; (that is to say,) on all such demises made before the passing of this Act, the annual value of the said lands shall be the rackrent at which the same are worth to be let by the year, to be ascertained at the commencement of the first year of assessment after the passing of this Act, by a valuation to be made thereof under the powers and according to the directions herein contained, and to the satisfaction of the said commissioners, which valuation shall be in force for the term limited for the continuance of this Act, if the said demise shall not sooner expire; and the amount ascertained by such valuation shall be deemed to be the rackrent at which the said lands are worth to be let for the said term, if the said demise shall not sooner expire, and the assessment thereupon shall in each year of the said term be made on the said valuation;

and on all such demises to be made after the passing of this Act the annual value of the said lands shall be the rackrent at which the same are worth to be let by the year, to be ascertained at the commencement of the said demise, by a like valuation to be made thereof in manner aforesaid.

67. Tenants at Rackrent under a Parol Demise, or not able to procure Leases, to deliver an Account of the Rent—Lands held under a Tenancy from year to year, or at will, to be rated by value, unless the Rent be fixed on a Demise within seven years.—In case any tenant at rackrent under any parol demise from year to year, within the period mentioned in the said general rule, or any tenant who, by reason of any mortgage or other contract, shall not have the custody or possession of or the power over any lease or agreement in writing under which he holds the premises demised within the said period, and who shall give reasonable proof to the commissioners why he is unable to produce the same, shall deliver to the assessor an account in writing signed by such tenant of the actual amount of the annual rent reserved on such demise, such account so delivered shall be deemed a compliance with this Act, in all cases where he may be called upon under the authority of this Act to produce such lease or agreement; and it shall be lawful for such assessor to make his assessment according to such rent, anything before contained to the contrary notwithstanding; but such assessment shall not be binding in case it shall appear to the said commissioners that the said account doth not express the full consideration for such demise, or the rent bonâ fide paid for the same, or that the rent reserved is less than the rackrent on occasion of any payments as aforesaid made or to be made by such tenant, or is made in any other respect with intent to conceal the annual value of the premises held under such demise, or to diminish the assessment to be made thereon: Provided always, that lands held for a longer period than seven years by any tenant under a demise from year to year, or at will, shall be estimated and assessed at the annual value thereof, unless the tenant shall show and prove to the satisfaction of the said commissioners that the same lands are held under a demise which commenced by agreement made and a rent fixed within the period of seven years, on the determination of the former demise thereof, by due notice within the said period.

68. Penalty on Tenants delivering false Accounts of the Rent of the Premises, or neglecting to produce Lease, &c.—Every person who shall wilfully deliver any such account as aforesaid which shall be false, or who shall wilfully refuse, neglect, or omit to produce any lease or agreement with intent to conceal the annual value of the premises therein comprised, or to diminish the estimate to be made thereon, shall forfeit the sum of twenty pounds, and shall be liable to be charged in treble the duty hereby directed to be charged as aforesaid, computed on the annual value of the premises held under such demise, estimated according to this Act; and the inspector and surveyor are hereby respectively required to surcharge the same, and the commissioners are required to make an assessment accordingly.

69. Tenants in Scotland to produce their Leases on Notice, &c.; or leave them with a Justice of the Peace, or Clergyman in certain cases.—Every tenant of lands, tenements, or heritages in Scotland shall, within ten days after the assessor shall have left at his usual place of abode, or at any dwelling house or other place on the premises to be charged with the assessment, a note in writing requiring the same, produce to such assessor the tack or lease or other agreement or articles in writing, under which such tenant holds such lands or tenements, or where the same shall not be in the power, custody, or possession of such tenant, or there shall be no such tack, lease, or agreement or articles, then he shall leave with such assessor, or at his dwelling house, within the time before mentioned, a note in writing of the actual rent annually reserved and payable, and of any other valuable consideration given or to be given to the landlord of such lands and tenements as a further consideration for such tenancy, under the penalty of treble the duty hereby chargeable thereon, in case of any wilful neglect to comply with such notice; and it shall be lawful for such assessor to make his assessment on the production of such lease or agreement or articles, according to the rent therein reserved and made payable, and, in case of non-production of such lease or agreement or articles in writing, then upon the rent reserved or made payable according to the account thereof delivered as aforesaid, if he shall be satisfied that the said lands, tenements, or heritages have been bonâ fide let at the reserved rent notified to him as aforesaid, without other valuable consideration; but in case such assessor shall not be

satisfied with the notification given to him, or in case no such notification shall be given, then such assessor shall make the assessment as directed in the foregoing rules: Provided always, that if the farm occupied by such tenant shall be distant more than ten miles from the dwelling house of such assessor, it shall be competent to such tenant to lodge his lease or note in writing of the rent with the nearest justice of the peace, or with the clergyman of the parish where the farm is situated; and the said justice of the peace or clergyman respectively shall be obliged to show the said lease or note of the rent to the said assessor when required.

70. All Properties to be assessed whether occupied or not—Power to distrain—Assessments on Houses to be discharged for the period they are unoccupied.—The said several duties shall be assessed on all lands, tenements, and hereditaments, whether occupied at the time of assessment or not; and so far as respects the duties chargeable under schedule (A.), in case any lands charged to the said duties shall be unoccupied, and no distress can be found on the same at the time such duties shall be payable, it shall be lawful for the collector of the parish or place where the said lands are situate for the time being, at any time after, to enter upon the said lands when there shall be any distress thereupon to be found, and the distress to seize and sell, under the like powers as he might have distrained on the same lands if in the occupation of such person at the time the duties became due: Provided always, that the said duties, or either of them, shall not be levied on any house which shall be or become unoccupied for such year, or portion of the year, as the same shall be unoccupied; but the assessment thereupon for such year, or portion of the year, as aforesaid, shall upon appeal, be discharged or diminished by the commissioners, on due proof of the time during which such house remained unoccupied.

71. Power to distrain for the Duties charged on Tithes.—Where by any assessment the duties shall be charged on tithes or teinds, and the same shall not be paid within the respective times limited by this Act, it shall be lawful for the collector and officer respectively to distrain upon such tithes or teinds, or any other goods or chattels of the owner of such tithes or teinds, wherever the same can be found, and to seize, take, and sell so much thereof as shall be sufficient for levying the said assessment, under and subject to the like powers granted by the said Acts relating to the duties of assessed taxes in other cases.

72. Mode of levying the Duties on Compositions for Tithes, or on Manors or Royalties, Markets, Fairs, Tolls, Fisheries, &c.—When any assessment shall be charged on any composition for tithes or teinds, or any rent or payment in lieu thereof, the occupier of the lands and premises charged with such composition, rent, or payment shall be answerable for the duties so charged, and may deduct the same out of the next payment on account thereof; and where any assessment shall be charged on the profits of manors or royalties, or of markets or fairs, or on tolls, fisheries, or any other annual or casual profits not distrainable, the owner or occupier, or receiver of the profits thereof, shall be answerable for the duties charged thereon, and may retain and deduct the same out of such profits; and in every such case the collector shall distrain upon such persons respectively by any of the ways and means prescribed by the said Acts relating to the duties of assessed taxes.

73. Contracts between Landlords and Tenants or other persons not to be binding contrary to this Act.—Provided always, that no contract, covenant, or agreement between landlord and tenant, or any other persons, touching the payment of taxes and assessments to be charged on their respective premises, shall be deemed or construed to extend to the duties charged thereon under this Act, nor to be binding contrary to the intent and meaning of this Act; but that all such duties shall be charged upon and paid by the respective occupiers, subject to such deductions and repayments as are by this Act authorized and allowed; and all such deductions and repayments shall be made and allowed accordingly, notwithstanding such contracts, covenants, or agreements.

74. Assessors to make their Assessments, and deliver them with the Returns to the Commissioners—Assessors may apply to Commissioners and Surveyors for instructions in cases of difficulty.—The respective assessors shall make their assessments on all lands, tenements, and hereditaments, or heritages, within the limits of those places for which they are to act, and shall set down therein the full and just annual value of all such lands and premises estimated in each particular case, according

to the directions of this Act, together with the names and surnames of the occupiers and proprietors thereof, and shall deliver the same, together with all returns which shall have been made to them, as well of such annual value as of any deduction claimed to be made therefrom, to the said commissioners for general purposes, such returns being first progressively numbered; and whenever the said assessors shall not be able to make their assessments according to the provisions of this Act, or shall be obstructed therein, it shall be lawful for them to make application to the said commissioners, or to any inspector or surveyor, who shall severally instruct such assessor in making his assessments, and assist him in the execution of this Act, according to the powers and authorities hereby vested in them respectively.

75. Assessors, on bringing in their Assessments, shall, if required, give Notice to Overseers of the Poor to produce the Rate Books—Commissioners may examine Assessors and Overseers touching the making of the Assessments—Inspector or Surveyor may rectify Assessments if not duly made.—The assessors to be appointed for the said duties in England shall, at the time of bringing in their assessments, if required so to do by any surveyor or inspector of the said duties, or by the respective commissioners, give notice to the overseers of the poor of the parish or place where they shall act, to produce or cause to be produced to the said commissioners the book or books, or a true copy thereof, in which shall have been entered the rates made for the relief of the poor of such parish or place, and also a true copy of the last rate made for the relief of the poor in such parish or place, and such overseers shall without fail produce such book or books to the said commissioners, or deliver the same to the said inspector or surveyor, for their use, and the said assessors shall declare in writing, signed by them, whether the said rates are made on the full value of the properties therein, or on any and what proportionate part thereof, to the best of their knowledge and belief; and the said commissioners shall, in case the said surveyor or inspector shall allege and show to the satisfaction of the said commissioners that the said assessments or any of them have not been made according to the directions of this Act, examine the said assessors, and also the overseers of the poor for the same parish or place, or any of them, being duly summoned for that purpose, on their oaths, touching the proportions between the said rates and the value of the properties charged therein, and whether the properties, or any and which of them, have been valued therein at the amount or at any and what proportion of the annual value thereof respectively, and what ought to be the just proportion between the rates on the different properties therein charged, if the amount of the values thereof and the same proportion between the rates had been observed throughout the rate, and also what property shall have been omitted to be rated, and which of the properties in the parish or place shall be entitled to be assessed on the profits or on an average of the profits according to this Act; and the said inspector or surveyor shall carefully examine the assessments made by the same assessors with the last rate made for the relief of the poor, in order that he may the better ascertain whether the said assessments have been made on all the properties situate in each parish, and according to the directions prescribed by this Act, and from the result of the said inquiries may rectify, the same in any particulars which in his judgment may be requisite before the commissioners allow and sign such assessment as herein directed, and in so doing may pursue, if he think fit, the rules in Number XI. of this Act before mentioned, relating to the said rates for relief of the poor.

76. Commissioners, &c. may inspect Public Rate Books, and take Copies or Extracts—Penalty for refusal to permit such Inspection, &c.—The several commissioners, inspectors, surveyors, and assessors acting respectively in the execution of this Act, or any person authorized by them respectively, shall have liberty, from time to time and at all seasonable times, to inspect and take copies of or extracts from any book kept by any parish officer or other person of or concerning the rates made for the relief of the poor, or any other public taxes, rates, or assessments, in any place within the limits for which they shall be appointed, without the payment of any fee whatever; and if any person in whose custody or power any of the said books shall be shall refuse or neglect to permit the said inspection, or the copies or extracts to be made as aforesaid, or to attend the said commissioners with any such book when required so to do in pursuance of this Act, such person so offending shall forfeit any sum not exceeding twenty pounds nor less than five pounds.

77. Assessors in Scotland to be assisted by the Schoolmasters, and to be

EXAMINED CONCERNING THEIR ASSESSMENTS.—It shall be lawful for the assessors in each parish or place in Scotland, and they are hereby required, to take to their assistance the schoolmaster in such parish or place, for the purpose of making such assessments of the lands and other premises within their respective limits; and at the time of bringing in their assessments they shall make oath of the truth of the same, and that such assessments are made according to the best of their skill and judgment, and shall submit to be examined on oath before the said commissioners in all matters and things concerning the said assessments which the said commissioners shall require for their information.

78. ASSESSORS, &C. MAY VIEW AND SURVEY LANDS BY ORDER OF THE COMMISSIONERS.—In cases where the occupier or other person chargeable shall, upon due notice under this Act, omit to produce an account in writing as aforesaid of the amount of the annual value of the property in his occupation, estimated according to the general rule in schedule (A.), or such other rules in the said schedule as are applicable to such property, or shall have delivered an account with which the commissioners shall be dissatisfied, the several assessors, inspectors, and surveyors, having first obtained an order in that behalf, signed by the said commissioners, and taking to their assistance such person or persons of skill as shall be named in such order, shall, after two days notice to the occupier, have full power, at all seasonable times in the daytime, to view and examine any lands or other property chargeable, in order to make a survey thereof, or otherwise to ascertain the annual value at which the same ought to be charged by virtue of this Act, and for so doing shall have liberty to enter upon any lands or grounds, whether inclosed or not, and to value the same, and to measure and survey the same if they cannot otherwise ascertain the annual value thereof.

79. COMMISSIONERS TO ALLOW AND SIGN ASSESSMENTS NOT OBJECTED TO, AND MADE TO THEIR SATISFACTION—ON OBJECTION TAKEN, THE COMMISSIONERS MAY RECTIFY ASSESSMENTS.—Within a reasonable time after the respective surveyors and inspectors shall have had the examination of the assessments delivered by the assessors, the commissioners shall proceed to take the same into consideration, and in case the surveyor or inspector shall not have objected thereto, and the said commissioners shall be satisfied that the said assessments have been made truly and without fraud, and so as to charge the several properties contained therein with the full duty which ought to be charged upon them respectively, the said commissioners shall allow and sign such assessments: Provided always, that in case the surveyor or inspector shall object to any such assessment, and shall apply for a revision thereof, suggesting in writing to the commissioners any error, mistake, or fraud in making the same, it shall be lawful for the said commissioners, according to the best of their judgment, to rectify such assessment, so that the duty may be fully charged according to the intent and meaning of this Act.

80. AMOUNT OF ASSESSMENTS AND DAY OF APPEAL TO BE NOTIFIED.—So soon as the assessments for any parish or place under schedules (A.) and (B.) shall be allowed and signed as aforesaid, the commissioners shall cause notice thereof and of the day for hearing appeals therefrom to be given in such manner as they shall judge expedient; which notice may be given either by delivering a copy of such assessment to the assessor of such parish or place, for the inspection of the parties charged thereby, together with a public notice of the day of appeal, to be affixed on or near to the church door, or on any other public place in the parish, or by delivering to each party charged the amount of his assessment, together with a note of the day of appeal; and such notices shall be made and given at least fourteen days before the day of appeal so fixed.

81. IN CASE OF DISPUTE THE VALUE OF LANDS MAY BE ASCERTAINED BY ACTUAL VALUATION BY ORDER OF THE COMMISSIONERS, &C.—BY WHOM THE COSTS OF SUCH VALUATION ARE TO BE PAID.—If upon appeal any dispute shall arise touching the annual value of any lands, tenements, hereditaments, or heritages, and the commissioners shall deem it necessary that a valuation thereof should be taken and made by any person of skill, it shall be lawful for them to direct the appellant to cause such valuation to be made by any person to be named by the said commissioners, the costs and charges whereof shall abide the final determination of the said commissioners; and it shall be lawful for them to make an assessment according to such valuation, and to require the same to be verified on the oath of the person making the same; but in case the appellant shall not proceed with effect to cause such valuation to be made as aforesaid, the said commissioners shall make an assessment according to the best of their judgment: Provided always, that it shall be competent to the said commissioners, in every such case where

the valuation so made shall exceed the value put upon the same lands, tenements, hereditaments, or heritages by the appellant, to direct the costs and charges attending the same to be paid by him; but if they shall be of opinion that such costs and charges have not been incurred through any default of the said appellant, they shall direct the same to be paid by the collector of the parish or place, who, on the certificate of the commissioners present at the time of the determination, shall pay the same, and the sum so paid shall be allowed to such collector in his accounts with the proper officer for receipt, on delivering to him such certificate, together with the receipt and voucher for such payment.

82. In case of Occupier showing Lease on Appeal, or, if no Lease, proving his Annual Rent, the Commissioners may reduce the Rate—Where Lands are assessed at less than the value, the Assessment may be increased.—Provided always, that if on appeal the occupier of any premises held under a demise at rackrent shall produce and show to the commissioners the lease, tack, or agreement in writing, or shall prove by any lawful evidence to be produced on his part, in case there shall be no such lease, tack, or agreement in writing, the annual amount of the rent at which such premises are let, it shall be lawful for the said commissioners, in case such rent hath been fixed by agreement commencing within the period of seven years mentioned in the said general rule, and they shall be satisfied that such lease, tack, or agreement doth express the full consideration for the demise under which such occupier shall hold the same, or that the rent bonâ fide paid by such occupier for the same hath been duly shown to them in evidence, and that such demise is made wholly in consideration of such reserved rent, without any intention to conceal or diminish the annual value of such premises, or other fraudulent intention whatever, to abate and deduct from such assessment so much as in their judgment will reduce the rate to a just rate on such rent: Provided always, that if it shall appear to the said commissioners that any lands, tenements, hereditaments, or heritages shall have been assessed at an annual value less than the actual rent at which the same shall be let, or (if not let) at less than the rent at which the same might be let, it shall be lawful for the said commissioners to enlarge and increase such assessment to such sum as a like rate on such rent would amount unto, as well with respect to the rate on the property as the rate on the occupation of such lands, tenements, hereditaments, or heritages.

83. Relief to be granted to Occupiers and Owners for Losses caused by Flood or Tempest, where Rent is abated in consequence.—Whenever by any flood or tempest loss shall be sustained on the growing crops, or on the stock on lands demised to a tenant at a reserved rent, without fine or other sum paid, given, or contracted for in lieu of a reserved rent, or any part thereof, or the said lands, or any part thereof, shall by such flood or tempest be rendered incapable of cultivation for any year, and it shall be proved on oath to the satisfaction of the commissioners for general purposes acting for the division where the said lands are situate, that the owner of the said lands hath in consideration of such loss abated or agreed to abate to his tenant the whole or any proportion of the rent reserved or payable by such tenant for any year of such demise, it shall be lawful for the said commissioners to abate in the assessment made in respect of the property in the said lands for the same year for which such rent hath been abated, and to discharge therefrom the whole or the like proportion of duty as the said owner shall appear on such proof as aforesaid to have abated of or from the rent reserved and made payable to him on such demise; and it shall also be lawful for the said commissioners in every such case to abate in the assessment made in respect of the occupation of the said lands for the same year, and to discharge therefrom the like proportion of duty as shall have been abated or discharged from the assessment made in respect of the property on the said lands for the cause aforesaid.

84. The like relief extended to Occupiers and Owners where the Owners are incapable of consenting to abatement of Rent.—Whenever from the cause aforesaid the like loss shall be sustained on the lands of any infant, idiot, lunatic, or other proprietor incapable of consenting to any abatement in the rent as aforesaid, being in the occupation of any such tenant as aforesaid, and the same shall be proved on oath before the said commissioners to their satisfaction, it shall be lawful for them to abate in the assessment made in respect of the occupation of the said lands, and to discharge the whole or any part of the said duty, and in proportion to the loss so sustained, and to the amount which the said commissioners shall be of opinion would or ought to have

been abated as aforesaid if the said lands had belonged to a proprietor of full age and of sound mind, and capable of such consent as aforesaid.

85. Abatement of Assessment in case of Losses on Lands in the occupation of Owners.—Whenever from the cause aforesaid the like loss shall be sustained on lands in the occupation of the owner, and the same shall be proved on oath before the said commissioners to their satisfaction, it shall be lawful for them to abate in the several assessments made in respect of the property in or occupation of the said lands, and to discharge the whole or any part of the said respective duties, and in proportion to the loss so sustained, and to the amount which the said commissioners shall be of opinion would or ought to have been abated as aforesaid if the said lands had been demised to a tenant, and a proportionate abatement had been made to such tenant under the circumstances of the said loss.

86. Penalty for making false Claim for such Abatement.—If any person shall be guilty of making any false claim for such abatement as aforesaid, or shall be guilty of any fraud or contrivance in making such claim, or in obtaining any such abatement, or shall fraudulently or untruly declare the amount or value of such lots, or the amount or value of any abatement made or agreed to be made in the rent of the lands in his occupation on account of such loss with intent fraudulently to obtain any such abatement, he shall forfeit the sum of fifty pounds, and treble the amount of duty charged on him in respect of the said lands; and if the owner of any such lands, or any other person whatever, shall aid, abet, or assist any person charged to the said duties in making such false or fraudulent claim, or shall fraudulently or untruly declare the amount or value of any abatement made or agreed to be made in the rent of the said lands or the amount of such loss, with intent fraudulently to obtain for himself, or for his tenant, or for the owner or tenant of the said lands, any such abatement as aforesaid, every such owner or other person aforesaid shall forfeit the sum of one hundred pounds.

87. First Assessment under Schedules (A.) and (B.) to remain in force for three years.—The first assessment to be made after the fifth day of April one thousand eight hundred and forty-two, of the duties chargeable under either of the schedules marked (A.) or (B.) of this Act, shall be and remain in force for the space of three years, without requiring returns from the parties charged therein for the second or third year of such assessment, and without altering the names of the parties charged, notwithstanding a change in the occupation or interest of or in the premises charged in such assessment may have happened; and the like sums shall be levied thereon for the second and third years respectively as shall or ought to have been levied thereon for the first year, and the assessment shall be subject to the like exemptions and allowances for the second and third years respectively as were granted for the first year; and the amount charged in such assessment shall be paid by four instalments in each year, on the days and times herein specified for payment of such instalments, subject, nevertheless, to be varied and altered in the following cases; (videlicet,)

First. Unless the party be under-rated or omitted, or have obtained an Exemption to which he is not entitled.—If the inspector or surveyor shall find or discover that any person hath been under-rated in such assessment or omitted to be charged therein for the first year, or hath obtained an exemption or allowance for the first year which ought not to be allowed for the second or third year, it shall be lawful for such inspector or surveyor to surcharge such assessment for the second or third year, in like manner in all respects as he is authorized to surcharge the assessment under the like circumstances for the first year of assessment, provided that such surcharge shall be made in the single duty, and no increase shall be made thereon above the rate of duty hereby granted, unless the commissioners shall be of opinion that the assessment for the first year was, in the particular surcharge, deficient through the wilful default or neglect of the party to be charged:

Second. Or a person not chargeable in the first year become so subsequently.—If any person not chargeable in the first year of assessment shall become chargeable in the second or third year, it shall be lawful for the assessor, inspector, or surveyor to require the like returns, and to proceed to the assessment of such person in like manner for the second or third year, as if the whole assessment of the parish, place, or district had commenced in that year:

Third. Or in case of Appeal.—If any person shall find himself aggrieved by the continuance of such assessment for the second or third year, by occasion of his being

over-rated therein, he may appeal from the same in that year on delivering ten days notice of such his intention to the inspector or surveyor, together with a true and perfect schedule of the annual value of the property charged on him for that year, in like manner as he might have appealed against the same assessment under the like circumstances for the first year, and no payment on such assessment for the first or second year shall be construed to preclude such appeal; provided that for any vexatious appeal without reasonable cause it shall be lawful for the commissioners to award reasonable costs for the attendance of the inspector, surveyor, or assessor, to be added to the assessment and levied therewith for the use of such inspector, surveyor, or assessor, and which shall be paid to them respectively in like manner as any other payments under this Act may be made to them:

Fourth. Assessment may be collected in the second and third year by the Book delivered for first year.—It shall be lawful for the respective collectors to levy and gather the assessment for the second and third years respectively on the occupiers for the time being by the same rate or book which shall have been delivered to them for the first year, unless the commissioners shall revoke the appointment of the said collectors, or shall alter or vary the assessments, and deliver to them a new rate or book for the second or third year.

Fifth. Commissioners Duplicates to be made for each year.—The duplicates of the commissioners shall be made for each year, and delivered to the proper officer for receipt and at the head office for stamps and taxes, containing the like particulars for the second and third years respectively as are herein required for the first year of assessment, varying only the amounts therein to be specified if the case shall require the same; and all the powers, regulations, matters, and things contained in this Act for rectifying any assessment, or increasing or diminishing the duty according to circumstances, or for levying the same, shall be in force for the second and third years respectively, in respect of the sums to be levied in those respective years, and shall be applied in those respective years, as fully and effectually as if the assessment had been made for those years respectively under the directions and regulations of this Act.

88. Duties in Schedule (C.) to be charged under the following Rules.—The duties hereby granted, contained in the schedule marked (C.), shall be assessed and charged under the following rules, which rules shall be deemed and construed a part of this Act, and to refer to the said last-mentioned duties, as if the same had been inserted under a special enactment.

SCHEDULE (C.)

Rules for assessing and charging the Duties under Schedule (C.)

By whom Duties to be paid—To what Stock Duties extend.—The said last-mentioned duties shall be paid by the persons and corporations respectively intrusted with the payment of the annuities, dividends, and shares of annuities, therein charged, on behalf of the persons, corporations, companies, or societies entitled thereto, their executors, administrators, successors, or assigns, and shall be assessed by the commissioners hereby authorized or appointed for those purposes; and shall extend to all public annuities whatever payable in Great Britain out of any public revenue in Great Britain or elsewhere, . . . and also to all dividends and shares of such annuities respectively which shall become payable after the fifth day of April one thousand eight hundred and forty-two, except in the following cases of exemption from the said duties; viz.

First.—Stock of Friendly Societies exempted.—The stock, dividends, or interest of any friendly society legally established under any Act of Parliament relating to friendly societies; provided it shall appear by the rules of any such society deposited or to be deposited with the commissioners for the reduction of the national debt, or with the trustees of any savings bank, that the sums assured by any such society to any individual, or to any person nominated by or to claim under him shall not exceed the sum of two hundred pounds, or the amount of any annuity or annuities granted or to be granted by any such society to any individual, or to any person nominated by or to claim under him, shall not exceed the sum of thirty pounds per annum:

Provided also, that when any property belonging to any such society shall be invested in the public securities in the Bank of England, the said last-mentioned property shall be duly claimed and proved by any trustee or treasurer of any such society, or or by any member thereof, before the said commissioners for special purposes:

Second. Stock of Savings Banks exempted.—The stock or dividends of any savings bank established or to be established under the provisions of an Act passed in the ninth year of the reign of King George the Fourth, intituled "An Act to consolidate "and amend the laws relating to savings banks," arising from investments with the commissioners for the reduction of the national debt; and also the dividends or interest payable by the trustees of any savings bank upon any funds therein deposited belonging to any depositor or to any charitable institution:

Third. Stock of Charitable Institutions exempted.—The stock or dividends of any corporation, fraternity, or society of persons, or of any trust established for charitable purposes only, or which, according to the rules or regulations established by Act of Parliament, charter, decree, deed of trust, or will, shall be applicable by the said corporation, fraternity, or society, or by any trustee, to charitable purposes only, and in so far as the same shall be applied to charitable purposes only; or the stock or dividends in the names of any trustees applicable solely to the repairs of any cathedral, college, church, or chapel, or any building used solely for the purpose of divine worship, and in so far as the same shall be applied to such purposes; provided the application thereof to such purposes shall be duly proved before the said commissioners for special purposes by any agent or factor on the behalf of any such corporation, fraternity, or society, or by any of the members or trustees:

Fourth. Stock in the name of the Treasury or of the Commissioners for Reduction of the National Debt.—The stock or dividends transferred to the accounts in the books of the Bank of England in the name or under the description of the Treasury, or the commissioners for the reduction of the national debt, in pursuance of any Act or Acts of Parliament; provided that the Bank of England shall from time to time cause to be transmitted to the said commissioners for special purposes an account of the total amount of stock which shall have been transferred to the said respective accounts, also the payments to be made by the commissioners for the reduction of the national debt on account of the Waterloo subscription funds:

Fifth. Stock belonging to her Majesty or to accredited Ministers.—The stock or dividends belonging to her Majesty, in whatever name the same may stand in the books of the Bank of England, and also the stocks or dividends of any accredited minister of any foreign state resident in Great Britain; provided the property thereof shall, if standing in the name of any trustee, be duly proved before the said commissioners for special purposes by such trustee.

Sched. (C.) in part rep. 37 & 38 *Vict. c.* 96 (*S.L.R.*).

89. The Bank of England and South Sea Company and the Commissioners for Reduction of the National Debt to deliver Accounts of the Annuities payable to and by them respectively to the Commissioners for assessing the same.—And for the assessing and charging of the said annuities payable to the Bank of England and to the South Sea Company respectively, at the receipt of the Exchequer as aforesaid, and the profits attached thereto respectively, and also for the assessing and charging of all annuities payable by the commissioners for reduction of the national debt, and the dividends and shares of all other annuities, payable out of any public revenue, which are or shall be intrusted for payment to the companies of the Bank of England and South Sea respectively, be it enacted, that the respective companies, corporations, and commissioners having the distribution or payment of the said several annuities, dividends, and shares shall from time to time, as often as the payments thereon shall become due, deliver to the respective commissioners, appointed for the purpose of assessing the duties thereon as aforesaid, true and faithful accounts in writing, in books to be provided for that purpose, of the several amounts of such annuities and profits attached to the same, which shall be paid to the said companies respectively, in respect of their corporate stock, and of such dividends and shares of annuities as shall be intrusted to any of such companies, corporations, or commissioners, for payment to the persons, corporations, and companies entitled thereto, and the amount of duty chargeable thereon at the rate before directed, without deduction on any pretence whatever, except as

herein is allowed, distinguishing therein the separate account of each person, corporation, company, and society entitled unto any part, dividend, or share of such annuities respectively, as the same shall stand in the books of the said respective companies, or at the said Exchequer, in such manner as that the part, dividend, and share of each person, corporation, company, and society of or to such annuities respectively may be distinctly charged and assessed to the said duty; and the said respective commissioners shall from time to time make an assessment of the duty which shall appear to be chargeable on the accounts so delivered to the best of their judgment and belief, and shall from time to time deliver the said books of assessments, signed by them respectively, to the said commissioners for special purposes; and the said commissioners for special purposes shall forthwith cause two certificates on parchment to be made out, under their hands and seals, containing the total amounts of duty, and of the annuities, dividends, and shares whereon the said duty shall have been charged, contained in each assessment, together with the proper title or description of the corporation, company, or persons having the distribution or intrusted with the payment of such annuities, dividends, and shares respectively; and they shall transmit one of such certificates to the respective commissioners for making such assessments, and the other certificate to the head office for stamps and taxes in England.

S. 89 *rep., so far as it relates to the South Sea Company,* 37 & 38 *Vict. c.* 96 (*S.L.R.*).

[*Ss.* **90–92** *rep.* 37 & 38 *Vict. c.* 96 (*S.L.R.*).]

93. Companies to set apart and retain sums assessed.—The respective corporations, companies, and persons entitled unto such annuities and profits attached thereto, or intrusted with the payment of the annuities, dividends, or shares of such public annuities as are herein-before described, shall, on notice of the amount of each assessment, from time to time to be made as aforesaid, (which notice shall be given from time to time as and when the annuities, dividends, and shares aforesaid shall become payable, and before payment thereof,) set apart and retain the amount of duty so assessed for the purposes of this Act; and every such setting apart and retaining of the said duties shall be deemed a payment thereof by and on the behalf of the persons, corporations, and companies entitled unto the said annuities, dividends, and shares respectively; and all persons, corporations, and companies entitled to such annuities or profits attached thereto, or to any part thereof, or to such dividends or shares of annuities as aforesaid, are hereby required, on receipt of the residue of the said annuities, profits, dividends, and shares, over and above the duty so assessed, to allow such payments in respect of the said assessments; and the corporations and persons having the distribution of such annuities, or intrusted with such payments shall be and are hereby acquitted and discharged of so much money, as if the same had actually been paid unto the persons to whom such annuities, profits, dividends, and shares did or might belong, or were by law payable.

94. Monies set apart to be paid into the Account of the Receiver General of Stamps and Taxes.—All monies so set apart at the Bank of England, . . . and by the commissioners for the reduction of the national debt, as before directed, shall be paid from time to time into the account to be kept at the Bank of England with the receiver general of stamps and taxes as herein-after directed, accompanied with a certificate of the amount of the assessment under which the same shall be so paid, under the hands of two or more of the commissioners making such assessment; and the governor and company of the Bank of England shall also cause the amount of such assessment as shall from time to time be charged on the trading profits of the said company to be paid into the said account.

S. 94 *in part rep.* 37 & 38 *Vict. c.* 96 (*S.L.R.*).

95. How small Dividends shall be charged.—Provided always, that in respect of any of the annuities, dividends, and shares of annuities chargeable under schedule (C.) by the respective commissioners for those purposes, it shall not be required of them to make an assessment for any amount or payment where the half-yearly payment on such annuities, dividends, or shares shall not amount to fifty shillings; but that the annuities, dividends, and shares whereof the half-yearly payment shall not amount to fifty shillings shall be accounted for and charged under the third case of schedule (D.) by which profits of an uncertain annual value are directed to be charged: Provided also,

that no person shall be required to return any statement of the profits of such annuities, dividends, or shares, the half-yearly payment whereof shall amount to fifty shillings or more, and which are herein-before directed to be assessed in manner aforesaid, or be liable to any penalty for not returning the same; but all such dividends and shares whereof the half-yearly payment shall not amount to fifty shillings, and which shall be paid without such assessment, shall be duly returned in the manner before directed, under the penalty before contained.

96. Persons intrusted with the payment of Colonial Annuities shall deliver Accounts thereof—Commissioners for Special Purposes to make Assessments thereon.—Every person (other than the Bank of England, the directors of the East India Company, and the commissioners for the reduction of the national debt,) intrusted with the payment of annuities, or any dividends or shares of annuities, payable out of the public revenue of any colony or settlement belonging to the crown of the United Kingdom to any persons, corporations, or companies in Great Britain, or acting therein as agent or in any other character before described, shall, without further notice or demand thereof, deliver or cause to be delivered into the head office for stamps and taxes in England an account in writing containing their names and residences, and a description of the annuities, dividends, and shares intrusted to them for payment, within one calendar month after the same shall have been required by public notice in the London Gazette, and shall also, on demand by the inspector authorized for that purpose by the commissioners of stamps and taxes, deliver or cause to be delivered to him, for the use of the said commissioners for special purposes, true and perfect accounts of the amount of annuities, dividends, and shares payable by them respectively; and the said commissioners for special purposes shall make an assessment thereon under schedule (C.) at the rate before prescribed, subject to diminution on occasion of any exemptions to be allowed by the said commissioners for special purposes, giving notice of the amount thereof to the respective persons intrusted with such last-mentioned payments, who shall respectively pay the duty on the said annuities, dividends, and shares, on behalf of the persons, corporations, and companies entitled unto the same, out of the monies in their hands; and they shall be acquitted of such payments in like manner, and the like proceedings in all respects shall be had under the said commissioners for special purposes, as are before directed in respect of annuities payable out of the public revenue of the United Kingdom: Provided always, that the persons intrusted with such payment shall from time to time pay the duty so assessed thereon into the Bank of England, to the account to be kept at the Bank of England as aforesaid with the receiver general of stamps and taxes, and shall be answerable for such payment, and which duty so assessed shall, in default of such payment, be recoverable against the persons respectively intrusted with such payments as other duties charged on the parties may be recovered against them; and if any person intrusted with the payment of any such last-mentioned annuities, or any dividends or shares thereof, in the manner herein mentioned, or acting therein as agent, or in any other character herein described, shall neglect or refuse to deliver an account of his name and residence in the manner herein directed, or, after demand, shall neglect or refuse to deliver an account as aforesaid of the amount of such annuities, dividends, and shares as he is intrusted with the payment of, or in the payment of which he shall act as agent, or in any other character herein described, he shall forfeit the sum of one hundred pounds over and above the duty chargeable on such annuities, shares, or dividends.

97. Securities issued at the Exchequer or other Public Office, and India Bonds, to be charged under Schedule (C.), &c.—Any interest payable out of the public revenue on securities issued or to be issued at the Exchequer or other public office, by whatever name such securities shall be called, shall be charged to the said duties under the rules contained in schedule (C.) by the commissioners for assessing the profits of offices in the said Exchequer or other office aforesaid at which the same shall be made payable, and the interest payable by the East India Company on the bonds issued or to be issued by them shall be charged to the said duties under the like rules by the commissioners herein-before appointed for that purpose; which said commissioners respectively shall execute this Act in relation to the profits arising from such securities and bonds as aforesaid, in like manner as the commissioners appointed by this Act are empowered to assess the profits arising from annuities payable out of the public revenue in other cases; and the said commissioners respectively hereby authorised to execute

this Act in relation to such securities and bonds as aforesaid shall appoint assessors and collectors of the said duties arising from such securities and bonds from and amongst the officers intrusted with the payment or discharge of such securities and bonds, who shall respectively at the time of payment or discharge thereof compute the duty thereon, and after such computation shall enter the same in a certificate of assessment, and certify the same to the proper officer appointed for the payment or discharge of such securities and bonds, which officer is hereby empowered to stop and detain the said duty, and to pay the same into the Bank of England to the credit of the receiver general of stamps and taxes, in discharge of such assessment; and every person receiving or purchasing any such security or bond in circulation, with current interest thereon, shall be entitled and is hereby empowered to deduct from such interest the proportion of duty which will become chargeable thereon in like manner and under the like powers and penalties as may be done in other cases of payment of interest, and as if such current interest were then due and charged to the said duty; and the like computation and assessment shall be made whenever a new security or bond shall be issued in the discharge of any former security or bond with interest, or in discharge of interest due on any former security or bond; and the person receiving such new security or bond in exchange for any former security or bond, with interest, or for such interest, shall pay to the proper officer at the time of receiving such new security or bond the full duty computed on the interest payable on the said former security or bond.

98. Claims of Exemption to be made to the Commissioners for Special Purposes according to following Rules.—Provided always, that all claims of exemption under any of the rules contained in schedule (C.) from the said duties on annuities, dividends and shares of annuities, payable out of the revenue of the United Kingdom, shall be made to the commissioners for special purposes at the head office for stamps and taxes in England, according to the following rules; videlicet,

First.—Every claim shall be made in writing, in such form as the commissioners of stamps and taxes shall direct; and the said commissioners for special purposes shall require the same to be verified on the affidavit of every such person as they shall think necessary, such affidavit to be made as before directed in all cases cognizable before the said commissioners, and they shall have authority to demand and require, from every such person as they shall think proper to be examined touching such claim, true answers upon oath, to be made as before directed, to all such questions as they shall think material in such claim.

Second.—Whenever the commissioners for special purposes shall have allowed any such exemption, they shall give an order for payment of the sums retained for the duties on such annuities, dividends, and shares, in respect of which they shall have allowed such exemption, to the respective claimants, or to the attornies or agents who shall have been authorised to receive the said annuities, dividends, and shares, on behalf of the said claimants; and such payment shall be made in like manner as is hereinbefore provided with respect to allowances to be granted under Number V. of schedule (A.) of this Act.

99. Penalty for fraudulently claiming Exemptions of Stock.—If any person shall, with intent to defraud her Majesty, falsely or fraudulently make any claim to be exempted, either in his own behalf or any other, from the duty charged on such annuities, or any dividends or shares thereof, contrary to the intent of this Act, every such person shall forfeit the sum of one hundred pounds; and if such claim shall be made by any person in his own behalf he shall moreover be liable to be assessed in treble the duty to be charged on the said annuities and shares.

100. Duties in Schedule (D.) to be charged under the following Rules.—The duties hereby granted, contained in the schedule marked (D.), shall be assessed and charged under the following rules; which rules shall be deemed and construed to be a part of this Act, and to refer to the said last-mentioned duties, as if the same had been inserted under a special enactment.

Schedule (D.)

To what the Duties extend, and by whom they shall be paid.—The said last-mentioned duties shall extend to every description of property or profits which shall not be contained in either of the said schedules (A.), (B.), or (C.), and to every

description of employment or profit not contained in schedule (E.), and not specially exempted from the said respective duties, and shall be charged annually on and paid by the persons, bodies politic or corporate, fraternities, fellowships, companies, or societies, whether corporate or not corporate, receiving or entitled unto the same, their executors, administrators, successors, and assigns respectively.

RULES for ascertaining the said last-mentioned Duties in the particular Cases herein mentioned.

First case.—Duties to be charged in respect of any trade, manufacture, adventure, or concern in the nature of trade, not contained in any other schedule of this Act.

RULES.

First. COMPUTATION OF DUTY ON TRADE.—The duty to be charged in respect thereof shall be computed on a sum not less than the full amount of the balance of the profits or gains of such trade, manufacture, adventure, or concern, upon a fair and just average of three years, ending on such day of the year immediately preceding the year of assessment on which the accounts of the said trade, manufacture, adventure, or concern, shall have been usually made up, or on the fifth day of April preceding the year of assessment, and shall be assessed, charged, and paid without other deduction than is herein-after allowed: Provided always, that in cases where the trade, manufacture, adventure, or concern shall have been set up and commenced within the said period of three years, the computation shall be made for one year on the average of the balance of the profits and gains from the period of first setting up the same: Provided also, that in cases where the trade, manufacture, adventure, or concern shall have been set up and commenced within the year of assessment, the computation shall be made according to the rule in the sixth case of this schedule:

Second. TO WHOM THE DUTY SHALL EXTEND.—The said duty shall extend to every person, body politic or corporate, fraternity, fellowship, company, or society, and to every art, mystery, adventure, or concern carried on by them respectively, in Great Britain or elsewhere, as aforesaid; except always such adventures or concerns on or about lands, tenements, hereditaments, or heritages, as are mentioned in schedule (A.), and directed to be therein charged:

Third. DEDUCTIONS NOT TO BE ALLOWED.—In estimating the balance of profits and gains chargeable under schedule (D.), or for the purpose of assessing the duty thereon, no sum shall be set against or deducted from, or allowed to be set against or deducted from, such profits or gains, on account of any sum expended for repairs of premises occupied for the purpose of such trade, manufacture, adventure, or concern, nor for any sum expended for the supply or repairs or alterations of any implements, utensils, or articles employed for the purpose of such trade, manufacture, adventure, or concern, beyond the sum usually expended for such purposes according to an average of three years preceding the year in which such assessment shall be made; nor on account of loss not connected with or arising out of such trade, manufacture, adventure, or concern; nor on account of any capital withdrawn therefrom; nor for any sum employed or intended to be employed as capital in such trade, manufacture, adventure, or concern; nor for any capital employed in improvement of premises occupied for the purposes of such trade, manufacture, adventure, or concern; nor on account or under pretence of any interest which might have been made on such sums if laid out at interest; nor for any debts, except bad debts proved to be such to the satisfaction of the commissioners respectively; nor for any average loss beyond the actual amount of loss after adjustment; nor for any sum recoverable under an insurance or contract of indemnity:

Fourth. NO DEDUCTION FOR ANNUAL INTEREST.—In estimating the amount of the profits and gains arising as aforesaid no deduction shall be made on account of any annual interest, or any annuity or other annual payment, payable out of such profits or gains.

Second case.—The duty to be charged in respect of professions, employments, or vocations, not contained in any other schedule of this Act.

Rules.

First. To what the Duty shall extend.—The said duty on employments shall be construed to extend to every employment by retainer in any character whatever, whether such retainer shall be annual, or for a longer or shorter period; and to all profits and earnings of whatever value, subject only to such exemptions as are hereinafter granted:

Second. Computation of Duty on Professions.—The duty to be charged shall be computed at a sum not less than the full amount of the balance of the profits, gains, and emoluments of such professions, employments, or vocations, (after making such deductions, and no other, as by this Act are allowed,) within the preceding year, ending as in the first case, to be paid on the actual amount of such profits or gains without any deduction, subject to the like provisions as are made in the first case in respect of the period of average, in the cases of setting up and commencing such profession, employment, or vocation within the period herein limited:

Third. Certain Rules of the First case to extend to the Second.—The third and fourth rules in the first case shall also extend to the profits arising under the second case, as far as they are applicable.

Rules applying to both the preceding cases.

First. Deductions not to be allowed on First and Second cases.—In estimating the balance of the profits or gains to be charged according to either of the first or second cases, no sum shall be set against or deducted from, or allowed to be set against or deducted from such profits or gains, for any disbursements or expenses whatever, not being money wholly and exclusively laid out or expended for the purposes of such trade, manufacture, adventure, or concern, or of such profession, employment, or vocation; nor for any disbursements, or expences of maintenance of the parties, their families, or establishments: nor for the rent or value of any dwelling house or domestic offices, or any part of such dwelling house or domestic offices, except such part thereof as may be used for the purposes of such trade or concern, not exceeding the proportion of the said rent or value herein-after mentioned; nor for any sum expended in any other domestic or private purposes, distinct from the purposes of such trade, manufacture, adventure, or concern, or of such profession, employment, or vocation:

Second. Duty on Trade to be computed exclusive of the Profits of Lands.—The computation of the duty to be charged in respect of any trade, manufacture, adventure, or concern, or any profession, whether carried on by any person singly or by any one or more persons jointly, or by any corporation, company, fraternity, or society, shall be made exclusive of the profits or gains arising from lands, tenements, or hereditaments, occupied for the purpose of such profession, trade, manufacture, adventure, or concern:

Third. Duty on Trade carried on by two or more persons, how to be charged.—The computation of duty arising in respect of any trade, manufacture, adventure, or concern, or any profession carried on by two or more persons jointly, shall be made and stated jointly and in one sum and separately and distinctly from any other duty chargeable on the same persons, or either or any of them; and the return of the partner who shall be first named in the deed, instrument, or other agreement of copartnership (or where there shall be no such deed, instrument, or agreement, then of the partner who shall be named singly, or with precedence to the other partner or partners, in the usual name, stile, or firm, of such copartnership, or, where such precedent partner shall not be an acting partner, then of the precedent acting partner,) and who shall be resident in Great Britain, (and who is hereby required, under the penalty herein contained for default in making any return required by this Act, to make such return on behalf of himself and the other partner or partners whose names and residences shall also be declared in such return,) shall be sufficient authority to charge such partners jointly: Provided always, that where no such partner shall be resident in Great Britain, then the statement shall be prepared and delivered by their

agent, manager, or factor resident in Great Britain, jointly for such partners and such joint assessment shall be made in the partnership name, stile, firm, or description; and no separate statement shall be allowed in any case of partnership, except for the purpose of the partners separately claiming an exemption as herein directed, or of accounting for separate concerns: Provided that if any partner being entitled to exemption shall declare the proportion of his share in such partnership, trade, profession, or concern, in order to a separate assessment for the above purpose, it shall be lawful to charge such partner separately; but if no such claim be made, then such assessment shall be made jointly, according to the amount of the profits and gains of such partnership: Provided also, that any joint partner in such trade, profession, or concern, which shall have been already returned by such precedent partner as aforesaid, may return his name and place of abode, and that he is such partner, without returning the amount of duty payable in respect thereof, unless the commissioners respectively shall think proper to require a further return, in which case it shall be lawful for such commissioners to require from every such partner the like return, and the like information and evidence as they are hereby entitled to require from the precedent partner.

Fourth. Computation of Duty in case of change of Partners.—If amongst any persons engaged in any trade, manufacture, adventure, or concern, or in any profession, in partnership together, any change shall take place in such partnership, either by death, or dissolution of partnership as to all or any of the partners, or by admitting any other partner therein, before the time of making the assessment, or within the period for which the assessment ought to be made under this Act, or if any person shall have succeeded to any trade, manufacture, adventure, or concern, or any profession within such respective periods as aforesaid, the duty payable in respect of such partnership, or any of such partners, or any persons succeeding to such profession, trade, manufacture, adventure, or concern, shall be computed and ascertained according to the profits and gains of such business derived during the respective periods herein mentioned, notwithstanding such change therein or succession to such business as aforesaid, unless such partners or such person succeeding to such business as aforesaid shall prove, to the satisfaction of the respective commissioners, that the profits and gains of such business have fallen short or will fall short from some specific cause, to be alleged to them, since such change or succession took place, or by reason thereof:

Fifth. Duties to be charged on one Division, except where the same person is engaged in different Concerns in Trade in divers places.—Every statement of profits to be charged under this schedule shall include every source so chargeable on the person delivering the same on his own account, or on account of any other person; and every person shall be chargeable in respect of the whole of such duties in one and the same division, and by the same commissioners (except in cases where the same person shall be engaged in different partnerships, or the same person shall be engaged in different concerns relating to trade or manufacture in divers places, in each of which cases a separate assessment shall be made in respect of each concern at the place where such concern if singly carried on ought to be charged as herein directed); and every such statement on the behalf of any other person for which such person shall be chargeable as acting in any of the characters before described or on the behalf of any corporation, fellowship, fraternity, company, or society, shall include every source chargeable as last aforesaid, and shall be delivered in that division where such person, corporation, fellowship, fraternity, company, or society, would be chargeable, if acting on his or their own behalf.

Third case.—The duty to be charged in respect of profits of an uncertain annual value not charged in schedule (A.)

First. Computation of Duty on uncertain Profits.—The duty to be charged in respect thereof shall be computed at a sum not less than the full amount of the profits or gains arising therefrom within the preceding year, ending as in the first case, to be paid on the actual amount of such profits or gains, without any deduction:

Second. Duty on Interest, not being annual.—The profits on all securities bearing interest payable out of the public revenue (except securities before directed to be charged under the rules of schedule (C.), and on all discounts and on all interest of money, not being annual interest, payable or paid by any person whatever, shall be charged according to the preceding rule in this case:

Third. Duty on Dealers in Cattle and Sellers of Milk.—Whenever the commissioners shall, on examination, find that any lands occupied by a dealer in cattle, or by a dealer in or seller of milk, (which lands shall have been estimated and charged on the rent or annual value,) are not sufficient for the keep and sustenance of the cattle brought on the said lands, so that the rent or annual value of the said lands cannot afford a just estimate of the profits of such dealer, it shall be lawful for the said commissioners to require a return of such profits, and to charge such further sum thereon as, together with the charge in respect of the occupation of the said lands, shall make up the full sum wherewith such trader ought to be charged in respect of the like amount of profits charged according to the first rule in this case.

Fourth case. Computation of Duty from Securities in the Colonies, &c., and Foreign Securities.—The duty to be charged in respect of interest arising from securities *in Ireland, or* [*Rep.* 37 & 38 *Vict. c.* 96 (*S.L.R.*)] in the British plantations in America, or in any other of her Majesty's dominions out of Great Britain, and foreign securities, except such annuities, dividends, and shares as are directed to be charged under schedule (C.) of this Act.

The duty to be charged in respect thereof shall be computed on a sum not less than the full amount of the sums (so far as the same can be computed) which have been or will be received in Great Britain in the current year, without any deduction or abatement.

Fifth case. Computation of Duty from Possessions in the Colonies, &c.—The duty to be charged in respect of possessions *in Ireland, or* [*Rep.* 37 & 38 *Vict. c.* 96 (*S.L.R.*)] in the British plantations in America, or in any other of her Majesty's dominions out of Great Britain, and foreign possessions.

The duty to be charged in respect thereof shall be computed on a sum not less than the full amount of the actual sums annually received in Great Britain, either for remittances from thence payable in Great Britain, or from property imported from thence into Great Britain, or from money or value received in Great Britain, and arising from property which shall not have been imported into Great Britain, or from money or value so received on credit or on account in respect of such remittances, property, money, or value brought or to be brought into Great Britain, computing the same on an average of the three preceding years, as directed in the first case, without other deduction or abatement than is herein-before allowed in such case.

Sixth case. Computation of Duty on undescribed Profits.—The duty to be charged in respect of any annual profits or gains not falling under any of the foregoing rules, and not charged by virtue of any of the other schedules contained in this Act.

The nature of such profits or gains, and the grounds on which the amount thereof shall have been computed, and the average taken thereon (if any), shall be stated to the commissioners; and the computation shall be made either on the amount of the full value of the profits and gains received annually, or according to an average of such period greater or less than one year, as the case may require, and as shall be directed by the said commissioners; and such statement and computation shall be made to the best of the knowledge and belief of the person in receipt of the same or entitled thereto.

101. Persons carrying on two or more Concerns may set the Loss sustained in one against the Profits acquired in the other Concern.—Provided always, that nothing herein contained shall be construed to restrain any person carrying on, either solely or in partnership, two or more distinct trades, manufactures, adventures, or concerns in the nature of trade, the profits whereof are made chargeable under the rules of schedule (D.), from deducting or setting against the profits acquired in one or more of the said concerns the excess of the loss sustained in any other of the said concerns over and above the profits thereof in such manner as may be done under this Act where a loss shall be deducted from the profits of the same concern, or to restrain any of such persons from making separate statements thereof, or to restrain any such person renting a dwelling house, part whereof shall be used by him for the purposes of any trade or concern or any profession hereby charged, from deducting or setting off from the profits

of such trade, concern, or profession such sum not exceeding two third parts of the rent bonâ fide paid for such dwelling house, with the appurtenances, as the said respective commissioners shall on due consideration allow; and the respective commissioners shall have authority to allow such deductions as in other cases, and to assess such person accordingly.

102. Charge of Duty on all Annual Interest not otherwise charged—Interest from Profits charged liable to deduction—All other Interest to be charged under Schedule (D.)—Interest secured on Rates to be charged on the Officer managing the Accounts.—Upon all annuities, yearly interest of money, or other annual payments, whether such payments shall be payable within or out of Great Britain, either as a charge on any property of the person paying the same by virtue of any deed or will or otherwise, or as a reservation thereout, or as a personal debt or obligation by virtue of any contract, or whether the same shall be received and payable half-yearly or at any shorter or more distant periods, there shall be charged for every twenty shillings of the annual amount thereof the sum of sevenpence, without deduction, according to and under and subject to the provisions by which the duty in the third case of Schedule (D.) may be charged; provided that in every case where the same shall be payable out of profits or gains brought into charge by virtue of this Act, no assessment shall be made upon the person entitled to such annuity, interest, or other annual payment, but the whole of such profits or gains shall be charged with duty on the person liable to such annual payment, without distinguishing such annual payment and the person so liable to make such annual payment, whether out of the profits or gains charged with duty, or out of any annual payment liable to deduction or from which a deduction hath been made, shall be authorized to deduct out of such annual payment at the rate of sevenpence for every twenty shillings of the amount thereof; and the person to whom such payment liable to deduction is to be made shall allow such deduction, at the full rate of duty hereby directed to be charged, upon the receipt of the residue of such money, and under the penalty herein-after contained; and the person charged to the said duties having made such deduction shall be acquitted and discharged of so much money as such deduction shall amount unto, as if the amount thereof had actually been paid unto the person to whom such payment shall have been due and payable; but in every case where any annual payment as aforesaid shall, by reason of the same being charged on any property or security *in Ireland, or* [*Rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*)] in the British plantations, or in any other of her Majesty's dominions, or on any foreign property or foreign security, or otherwise, be received or receivable without any such deduction as aforesaid and in every case where any such payment shall be made from the profits or gains not charged by this Act, or where any interest of money shall not be reserved or charged or payable for the period of one year, then and in every case there shall be charged upon such interest, annuity, or other annual payment as aforesaid, the duty before mentioned, according to and under and subject to the several and respective provisions by which the duty in the third case of schedule (D.) may be charged: Provided always, that where any creditor on any rates or assessments not chargeable by this Act as profits shall be entitled to such interest, it shall be lawful to charge the proper officer having the management of the accounts with the duty payable on such interest; and every such officer shall be answerable for doing all acts, matters, and things necessary to due assessment of the said duties, and payment thereof, as if such rates or assessments were profits chargeable under this Act; and such officer shall be in like manner indemnified for all such acts, as if the said rates and assessments were chargeable.

103. Penalty on refusing to allow Deductions.—If any person shall refuse to allow any deduction authorized to be made by this Act out of any payment of annual interest of money lent, or other debt bearing annual interest whether the same be secured by mortgage or otherwise, he shall forfeit for every such offence treble the value of such principal money or debt; and if any person shall refuse to allow any deduction authorized to be made by this Act out of any rent or other annual payment mentioned in the ninth and tenth rules of No. IV. schedule (A.), or out of any annuity or annual payment mentioned in schedules (C.) or (E.), or in the next preceding clause, save such annual interest as aforesaid, every such person shall forfeit the sum of fifty pounds; and all contracts, covenants, and agreements made or entered into, or to be made or entered into, for payment of any interest, rent, or other annual payment aforesaid, in full, without allowing such deduction as aforesaid, shall be utterly void.

104. Deductions on payment of Interest of Money and other payments from Profits charged under Schedule (D.), to be made by virtue of a Certificate.—Whenever it shall be proved, to the satisfaction of the said respective commissioners acting in the district where any person making the application shall reside, that any interest of money, annuity, or other annual payment shall be annually paid out of the profits and gains bonâ fide accounted for and charged by virtue of this Act at the rate and according to the rules specified in schedule (D.), without any deduction on account thereof, it shall be lawful for such commissioners to grant a certificate thereof, under the hands of any two of them, in such form as shall be provided under the authority of this Act, which certificate shall entitle the person so assessed, upon payment of such interest, annuity, or other annual payment, to abate and deduct so much thereof as a like rate on such interest, annuity, or other annual payment would amount unto; and every person to whom such interest, annuity, or other annual payment shall be paid, shall allow such deductions and payments, upon receipt of the residue of such interest, annuity, or other annual payment; and the person paying the same shall be acquitted and discharged of so much money as a like rate thereon would amount unto, as if the same had actually been paid unto the person to whom such interest, annuity, or other annual payment shall have been due and payable; provided no such certificate shall be required where such payments are to be made out of the profits or gains arising from lands, tenements, hereditaments, or heritages, as before mentioned, or of any office or employment of profit, or out of any annuity, pension, stipend, or any dividend or share in such public annuities as are herein mentioned, but such deductions may be made without having obtained such certificate.

105. Charitable Institutions exempted from the Duties on Interest chargeable under Schedule (D.).—Provided always, that any corporation, fraternity, or society of persons, and any trustee for charitable purposes only, shall be entitled to the same exemption in respect of any yearly interest or other annual payment chargeable under schedule (D.) of this Act, in so far as the same shall be applied to charitable purposes only, as is herein-before granted to such corporation, fraternity, society, and trustee respectively in respect of any stock or dividends chargeable under schedule (C.) of this Act, and applied to the like purposes; and such exemption shall be allowed by the commissioners for special purposes, on due proof before them; and the amount of the duties which shall have been paid by such corporation, fraternity, society, or trustee in respect of such interest or yearly payment, either by deduction from the same or otherwise, shall be repaid under the order of the said commissioners for special purposes in the manner herein-before provided for the repayment of sums allowed by them, in pursuance of any exemption contained in the said schedule (C.).

106. In what Districts the Duties are to be charged—Declaration to be delivered of the place where party is chargeable—In cases of persons not engaged in Trade having two Residences, where the Duties to be charged.—Every person being a householder (except persons engaged in any trade, manufacture, adventure, or concern, or any profession, employment, or vocation,) shall be charged to the said duties contained in schedule (D.) by commissioners acting for the parish or place where his dwelling house shall be situate; and every person engaged in any trade, manufacture, adventure, or concern, or any profession, employment, or vocation, shall be chargeable by the respective commissioners acting for the parish or place where such trade, manufacture, adventure, or concern shall be carried on, or where such profession, employment, or vocation shall be exercised, whether such trade, manufacture, adventure, or concern shall be carried on, or such profession, employment, or vocation shall be exercised, wholly or in part only in Great Britain, or whether such person shall be engaged in one only or more of such concerns, except where the same person shall be engaged in different concerns, and a loss from one concern shall be set off or deducted from the profits of another concern; and every person not being a householder, nor engaged in any trade, manufacture, adventure, or concern, nor in any profession, employment, or vocation, who shall have any place of ordinary residence, shall be charged by the commissioners acting for the parish or place where he shall ordinarily reside; and every person not herein-before described shall be charged by the commissioners acting for the parish or place where such person shall reside at the time of beginning to execute this Act in each year by giving such general notices as are herein mentioned, or shall first come to reside after the time for giving such general notices; and every such charge

made in such parish or place shall be valid and effectual, notwithstanding the subsequent removal of the person so charged from the parish or place; and in order that the place where the said last-mentioned duties are to be charged may be ascertained, every person is hereby required on the delivery of any list or statement as aforesaid, at the same time to deliver a declaration in writing signed by him declaring in what place he is chargeable, and whether he is engaged in any trade, manufacture, adventure, or concern, or in any profession, employment, or vocation, or not, and if he shall be so engaged in any trade, manufacture, adventure, or concern, or any profession, employment, or vocation, also declaring the place where the same shall be carried on or exercised, and every particular concern, profession, or employment in which he shall be engaged in such place in Great Britain, whether wholly in Great Britain, or in part only as aforesaid; provided that where any trade shall be carried on in Great Britain by the manufacture of goods, wares, or merchandise, the assessment thereon shall be at the place of manufacture, although the sales of such goods, wares, or merchandise shall be elsewhere: Provided always, that every person not being engaged in any trade, manufacture, adventure, or concern, or in any profession, employment, or vocation, having two or more houses or places at which he shall be ordinarily resident, shall be charged at such of the parishes or places wherein the dwelling house is situate in which he shall be ordinarily resident at the time of beginning to execute this Act in each year, in manner aforesaid, or in which he shall first come ordinarily to reside after giving such general notices as aforesaid: . . . . . .

S. 106 *in part rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*).

[*S.* **107** *rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*).]

108. Duties on Profits of Foreign or Colonial Possessions or Securities where to be charged.—The duty to be assessed by virtue of this Act in respect of the profits or gains arising from foreign possessions or foreign securities, or in the British plantations in America, or in any other of her Majesty's dominions, may be stated to and assessed by the respective commissioners acting for the respective places herein-after mentioned, videlicet, London, Bristol, Liverpool, and Glasgow, according to the regulations herein-after mentioned, as if such duty had been assessed upon the profits or gains arising from trade or manufacture carried on in such places respectively; and such duty shall be stated to and assessed and charged by the commissioners acting for such of the said places at or nearest to which such property shall have been first imported into Great Britain, or at or nearest to which the person who shall have received such remittances, money, or value from thence, and arising from property not imported as aforesaid, shall reside; and in default of the owner or proprietor thereof being charged, the trustee, agent, or receiver of such profits or gains shall be charged for the same, and shall be answerable for the doing all such acts, matters, and things as shall be required by this Act to be done, in order to the assessing such profits to the duties granted by this Act, and paying the same, whether the person to whom the said profits belong shall be resident in Great Britain or not: Provided always, that whenever the produce or the profits or gains arising from such possessions or securities as last aforesaid shall have been imported partly into the port of London, and partly into any of the outports of Bristol, Liverpool, or Glasgow, or shall have been received by any person partly in the city of London and partly in any of the said outports, within the period of making up the account on which the duty is chargeable by this Act according to the rules herein contained, the whole of the duty chargeable in respect of such produce, profits, or gains so imported or received shall be assessed and charged by the commissioners acting for the said city of London, and not elsewhere, and as if the whole of the said produce or the said profits or gains arising within the said period had been imported into or received in London; and whenever such produce or profits or gains arising as aforesaid shall have been within such period wholly imported into or received at the said outports of Bristol, Liverpool, and Glasgow, and different parts thereof shall have been imported into or received at two or more of such outports, the duty chargeable thereon shall be assessed and charged at one of such places only, and in one account, and at such of the said places at which the major part in value of such produce or profits or gains shall have been so imported or received; provided that the statements of such produce, profits, or gains shall be delivered to the commissioners acting for each place at which any part of the said produce or profits or gains shall have been so imported or received, and

transmitted by the respective commissioners to the head office for stamps and taxes in England; and the commissioners of stamps and taxes shall cause all such statements to be sent to the commissioners acting for the place where the duty thereon shall appear by such statements to be chargeable according to this Act, who shall accordingly assess the same in one sum.

109. London and East and West India Docks and St. Katherine Dock to be assessed in London.—The profits arising from the docks called the London Docks, the East and West India Docks, and Saint Katherine Dock respectively, situate in the county of Middlesex, shall be assessed by the commissioners acting for the city of London.

110. Statements to be delivered at each Place of Residence.—Statements of Profits under Schedule (D.) may be delivered under Seal.—Every person having two residences, or carrying on any trade or exercising any profession in different parishes, places, or in any place different from the place of his ordinary residence, shall, if required by the respective commissioners, deliver at each such parish or place the like lists, declarations, and statements, as he is hereby required to deliver in the parish or place where such person ought to be charged, but shall not be liable to any double charge by reason thereof; and all lists, declarations, and statements containing the amount of profits chargeable under schedule (D.) may be delivered to the respective persons and in manner herein directed, sealed up, if superscribed with the name and place of abode of or place of exercising the profession or carrying on trade by the person by whom the same shall have been made.

111. Additional Commissioners to consider Statements, and make Assessments on such as are satisfactory.—All statements of profits and gains described in schedule (D.), (except statements whereon assessments are to be made by the commissioners for special purposes as herein-after authorized,) shall be laid before the additional commissioners, or the commissioners for general purposes acting as additional commissioners in their respective districts, who shall appoint meetings for taking all statements then and from time to time to be delivered to them into consideration, within a reasonable time after the inspector or surveyor shall have had the examination of such statements; and in case the said additional commissioners respectively shall be satisfied that any such statements have been bonâ fide made according to the provisions of this Act, and so as to enable the commissioners to charge the respective persons returning the same with the full duties with which they ought respectively to be charged on account thereof, and in case no information shall be given to the said commissioners of the insufficiency thereof, or no objection shall be made thereto by the inspector or surveyor, which he is hereby empowered to make for sufficient cause, the said commissioners shall direct an assessment to be made of the duties chargeable on such statement by virtue of this Act.

112. Where the Surveyor is dissatisfied with an Assessment, he may require a case to be stated for the opinion of the General Commissioners.—Provided always, that where the surveyor or inspector shall apprehend the determination made by the said commissioners to be contrary to the true intent and meaning of this Act, and shall then declare himself dissatisfied with such determination, it shall be lawful for him to require the said commissioners to state specially and sign the case upon which the question arose, together with their determination thereupon, which case the said commissioners are hereby required to state and sign accordingly, and to deliver to the said inspector or surveyor, to be by him transmitted to the commissioners for general purposes for the same district, who shall with all convenient speed return an answer to the case so transmitted, with their opinion thereon subscribed; and according to such opinion the assessment which shall have been the cause of such appeal shall be altered or confirmed.

113. When no Statement or no sufficient Statement is returned, the additional Commissioners to make an Assessment according to the best of their judgment.—In every instance in which any person shall have made default in the delivery of any statement, such person not having been otherwise charged to the said last-mentioned duties, or if the said additional commissioners shall not be satisfied with the statement delivered by any person, or any objection shall be made thereto by the inspector or surveyor, (which he is hereby authorized and required to make in writing, setting forth the cause thereof whenever he shall see sufficient cause,) or the said commissioners shall have received any information of the insufficiency of any statement,

the said commissioners shall make an assessment on such person in such sum as, according to the best of their judgment, ought to be charged on him by virtue of this Act, which assessment shall be subject to an appeal, according to the directions herein-after contained.

114. Additional Commissioners may refer Statements to Commissioners for General Purposes.—Whenever the additional commissioners shall think it proper to refer any statement to the commissioners for general purposes without making any assessment thereon, it shall be lawful for them so to do on delivering to the last-mentioned commissioners the case in writing relative to such statement, as the same shall appear to the said additional commissioners, with any matter in question between them, either as to law or fact; and the said commissioners for general purposes shall proceed to inquire into the merits of such statement, in like manner as they would have been hereby authorized to do in case the said additional commissioners had made an assessment on such statement, and the party charged had appealed against the same; and thereupon an assessment shall be made according to the determination of the said commissioners for general purposes.

115. Inspector and Surveyor may examine Assessments, and erroneous Assessments may be amended on their Certificate.—The inspector or surveyor, being sworn as aforesaid, shall and may at all seasonable times inspect and examine any assessment which shall be made by the additional commissioners, before the delivery thereof to the commissioners for general purposes; and in case he shall discover any error in the same which in his judgment shall require amendment, he shall certify the same to the said additional commissioners by whom the assessment shall have been made, and the said additional commissioners, upon sufficient cause being shown to them, shall amend the same as in their judgment the case shall require.

116. Inspector or Surveyor to state his objections to Assessments in writing, and to give notice to the party.—In every case where the inspector or surveyor shall object to the amount of the duty charged by any assessment made by the additional commissioners, which he is hereby empowered to do in any case upon sufficient cause, he shall state such objection in writing to the said additional commissioners, who shall thereupon certify the same, together with the reasons for making such assessment, and any information they shall have obtained respecting the same, to the commissioners for general purposes; and the said inspector or surveyor shall also give such notice thereof to the party assessed as he is required to do by the said several Acts relating to the duties of assessed taxes in cases of surcharge, in order that the party so charged may be at liberty to appear before the said commissioners for general purposes in support of such assessment.

117. Additional Commissioners to make out Certificates of Assessments, &c.—The said additional commissioners shall cause certificates of assessments to be duly made out from time to time as the same shall be completed, distinguishing the ward, parish, or place within their respective districts for which each such assessment shall be made, which shall contain the names and surnames of the parties charged, and the sums which they respectively ought to pay by virtue of this Act, and shall cause such certificates to be entered in books provided for that purpose, according to such forms as shall be transmitted to them by the commissioners of stamps and taxes; and the said additional commissioners shall sign such assessments, and from time to time deliver the same, so entered and signed, to the commissioners for general purposes, under cover sealed up, and shall also cause the statements returned to them by the parties so assessed, or by the assessors relating to such assessments, to be delivered at the same time, sealed up in the like manner, to the said commissioners for general purposes; provided that no assessment made by additional commissioners, or persons acting as such, shall be delivered to the respective parties until the expiration of fourteen days after the assessment, so signed as aforesaid, shall have been delivered to the commissioners for general purposes, or the persons acting as such, and the inspector or surveyor shall have had notice thereof.

118. Persons aggrieved may appeal, &c.—If any person shall think himself aggrieved by an assessment made by the said additional commissioners, or by any objection to such assessment made by any surveyor or inspector as aforesaid, it shall be lawful for him on giving ten days notice thereof in writing to the inspector or surveyor, to appeal to the commissioners for general purposes in the same district where such

assessment was made, who shall hear and determine such appeal; and the commissioners for general purposes shall from time to time appoint days for hearing appeals as soon after any assessments shall be returned to them by the additional commissioners as conveniently can be done; and the assessors shall cause notice of the days so appointed to be given to the respective appellants; and the meetings of the commissioners for the purpose of hearing appeals shall be held from time to time, within the time limited by the said commissioners with or without adjournment; and no appeal shall be received after the time so limited, except on the ground of diminution of income, as herein mentioned: Provided always, that if any person shall be prevented, by absence, sickness, or other reasonable cause, to be allowed by the said commissioners, from making or proceeding upon his appeal within the time so limited, it shall be lawful for the said commissioners to give further time for that purpose or to admit the same to be made by any agent, clerk, or servant on the behalf of such appellant.

119. Notice to be given of the time limited for hearing Appeals.—In order that all appeals upon such assessments may be determined in due time, the commissioners for general purposes shall cause a general notice to be fixed up in their office, or left with their clerk, and also to be affixed on or near to the door of the church or chapel of such parish or place, or of some adjoining parish or place, in cases requiring the same by reason of any such place having no church or chapel, limiting the time for hearing all appeals, and which appeals shall be limited to be heard within a reasonable time after the cause thereof shall have arisen; and no appeal shall be heard after the time limited in such notice, unless the appeal shall be made on behalf of any person who shall be absent out of the realm, or prevented by sickness from attending in person within the time so limited, in which cases it shall be lawful for the said commissioners to postpone any such appeal from time to time or to admit other proof than the oath of the party of the truth of the several matters required by this Act to be proved by his oath.

120. On any Appeal, and when an Objection made by the Surveyor is allowed, the Commissioners shall require a Schedule of Particulars from the Appellant.—Upon receiving notice of appeal against any assessment made as last aforesaid, and also in every case where the commissioners for general purposes shall see cause to allow the objection of such inspector or surveyor to such assessment, the said commissioners shall direct their precept to the person appealing to return to them, within the time limited therein, a schedule containing such particulars as the said commissioners shall demand, under the authority of this Act, for their information respecting the property of such person, or the trade, manufacture, adventure, or concern in the nature of trade, or the profession, employment, or vocation respectively carried on or exercised by such person, and the amount of the balance of his profits and gains, distinguishing the particular amounts derived from each separate source before mentioned, or respecting the particulars of the deductions from any of such profits or gains made in such statements or schedules, and which the said commissioners are hereby empowered and required to demand, at their discretion, whenever the same shall appear to them necessary for the purposes mentioned in this Act, and so from time to time until a complete schedule, to the satisfaction of the said commissioners, of all the particulars required by them shall be delivered; and every such precept, being delivered to or left at the last or usual place of abode of the person to whom the same shall be directed, shall be binding upon him according to the exigency thereof; or in case such person shall have removed from the jurisdiction of the said commissioners, or cannot be found, or his place of abode shall not be known, then, upon fixing such precept on or near to the door of the church or chapel of the place where the commissioners shall meet in the execution of this Act, such precept shall also be binding upon such person according to the exigency thereof, and such person shall make the return required by the said commissioners within the time limited in such precept, under the penalty in this Act contained, and subject to such charge as the said commissioners are hereby authorized to make in such case; to which schedule any inspector or surveyor sworn as aforesaid shall have free access at all reasonable times, and shall take such copies thereof or of any parts thereof, or extracts from the same, as he shall think necessary for the due execution of this Act.

121. Inspector or Surveyor may object to Statements in Schedule, giving notice to the party.—It shall be lawful for the inspector or surveyor sworn as aforesaid, within a reasonable time, to be allowed by the said commissioners for general

purposes, after he shall have had the examination of such schedules, to object to the same or any part thereof, and to state such objections in writing, and the cause thereof, to the best of his knowledge or information; and the said inspector or surveyor shall, in every case of objecting to any such schedule, deliver a notice in writing of such objection to the party to be charged, or leave the same at his last or usual place of abode, under cover sealed up and directed to such party, in order that he may, if he shall think fit, appeal from the same to the said commissioners: Provided always, that no assessment shall be confirmed, nor any alteration therein be made, until the appeal upon such objection or assessment shall be heard and determined.

122. Commissioners overruling Objection, or satisfied with the Assessment or Schedule, may confirm or alter the Assessment accordingly.—If, upon receiving the objection of such inspector or surveyor to any schedule, the said commissioners for general purposes shall see cause to disallow such objection, or if, upon the hearing of any such appeal as aforesaid, the said commissioners shall be satisfied with the assessment made by the additional commissioners, or after delivery of a schedule they shall be satisfied therewith, and shall have received no information of the insufficiency thereof, the said commissioners for general purposes shall direct such assessment to be confirmed or altered according to such schedule, as the case may require; provided that in every case where they shall think proper that the said statement on which the additional commissioners made their assessment, or the schedule delivered to the commissioners for general purposes, should be verified, they shall direct the assessor to give notice to the person to be charged with the said duties to appear before them to verify the said statement or schedule in the manner herein-after mentioned; and every such person is hereby required to appear accordingly before the said commissioners, and, on oath as aforesaid, to verify the contents of his statement or schedule, and to sign and subscribe the same with his proper name; and such oath shall be, that the contents of such statement or schedule are true to the best of his judgment or belief, and that the same contains the just balance of the profits and gains arising from the source or sources therein contained, after making such reductions as are herein stated, and that no deduction whatever than such as is therein stated, and to such amount only as is therein stated, hath been made from the profits or gains accounted for; provided always, that such person shall be at liberty to amend his said statement or schedule before he shall be required to take such oath; and after such oath, and in every case where such statement or schedule shall not have been objected to as aforesaid, and the said commissioners shall be satisfied therewith, they shall make an assessment according thereto, on the amount therein stated, at which the duty shall have been computed; and every such assessment, made after verification of such statement or schedule, shall be final and conclusive as to the matters contained in such statement or schedule.

123. Commissioners may put Questions in writing touching any Assessment or Schedule, and receive Answers.—Whenever the commissioners for general purposes shall be satisfied with any assessment returned by the additional commissioners to them, or with any schedule delivered to them, or shall require further information respecting the same, it shall be lawful for the said commissioners for general purposes to put any question in writing touching such assessment, or the contents of such schedule, or touching any of the matters which ought to be contained therein, or any sums which shall have been set against or deducted from the profits or gains to be estimated in such assessment or schedule, and the particulars thereof, and to demand an answer in writing accordingly from and signed by the person to be charged, and so from time to time whenever the said commissioners shall think the same necessary; and the said commissioners for general purposes shall from time to time issue their precept, requiring true and particular answers to be given to such questions within seven days after the service of such precept; and every such person shall make true and particular answers, in writing signed by him, to such questions, within the time limited by such precept, or shall within the like period tender himself before the said commissioners for general purposes to be examined by them vivâ voce to such matters; and every person required to make such answers, or appearing before the said commissioners to be examined as a party, or as the clerk, agent, or servant of such party, as herein is mentioned, shall be permitted to give his answers, either in writing as aforesaid or vivâ voce, without having taken any oath, and shall be at liberty to object to any question, and peremptorily to refuse answering the same; and the substance of such answers as

he shall give vivâ voce shall, in his presence, be reduced into writing, and read to him, and he shall be at liberty to alter any part thereof, and also to alter or amend any particular contained in his answers in writing, or in any schedule or declaration, before he shall be called upon to verify the same in the manner herein directed; and every such schedule shall be altered or amended as shall seem requisite, after such inquiry or examination.

124. Commissioners for General Purposes may call upon the party to appear and verify his Answers, &c. on Oath.—It shall be lawful for the commissioners for general purposes, in every such case as aforesaid, whenever they shall think the same necessary, to require the person upon whom any assessment hath been made by the additional commissioners, with which the said commissioners for general purposes are dissatisfied, or from whom such schedule or answers in writing as aforesaid have been received, with which the said commissioners are dissatisfied, to appear and verify the same, and, upon the appearance of such person, to permit him to alter or amend such schedule or answers, and thereupon to administer to such person the oath hereinafter mentioned, and also to require any person who shall have been examined vivâ voce before them to verify his examination on oath, which any one of the said commissioners is hereby empowered to administer; and such oath shall be, that the contents of the said statements or schedules are true to the best of his knowledge and belief, and contain a full and true account of the balance of all the profits and gains of the deponent chargeable by this Act, to the best of his knowledge and belief, and a full and true account of every deduction made from his profits or gains in adjusting such balance, or that the contents of all such answers in writing as shall have been returned to the said commissioners by him as the same are then stated, or that the contents of his examination, as the same have been reduced into writing, are true; and every such oath shall be subscribed by the party taking the same.

125. And may summon Witnesses, and examine them upon Oath—Penalty for refusing to attend or to be examined.—It shall be lawful for the commissioners for general purposes to summon in like manner any person, whom they shall think able to give evidence or testimony respecting the assessment made or to be made on any other person, to appear before them to be examined, and to examine every such person who shall so appear before them on oath (except the clerk, agent, or servant of the person to be charged, or other person confidentially intrusted or employed in the affairs of such party to be charged, and who shall respectively be examined in the same manner and subject to the same restrictions as are herein-before provided for the vivâ voce examination of any party touching the assessments to be charged on him), which oath any one of the said commissioners is hereby empowered to administer; and such oath shall be that the testimony or evidence to be given by such person shall contain the whole truth, and nothing but the truth, in respect of the matter in question concerning which such evidence or testimony is to be given; and every such oath shall be subscribed by the person taking the same; and if any person, being duly summoned as aforesaid, shall refuse or neglect to appear before the said commissioners at the time and place to be appointed for that purpose, or if any person, other than such clerk, agent, servant, or person confidentially intrusted or employed as aforesaid, being summoned, shall appear before the said commissioners, but shall refuse to be sworn, or to subscribe such oath as aforesaid, or, having taken and subscribed such oath, shall refuse to answer any lawful question touching the matter depending before the said commissioners, every person so offending shall forfeit any sum not exceeding twenty pounds.

126. Commissioners agreeing to make an Assessment on the Schedule may do so; but in certain cases Commissioners may make an Assessment according to their judgment, which shall be final.—If the commissioners for general purposes, or the major part of them present, after hearing all such appeals as shall be depending before them, or upon any objection made by the inspector or surveyor to any such assessment or schedule, whether such inquiry or examination as aforesaid shall have taken place or not, shall agree to make an assessment according to the statement contained in the said schedule, as the same shall have been returned, or altered or amended upon appeal as aforesaid, they shall direct an assessment to be made of the duties chargeable on the statement contained in the said schedule at the rate contained in this Act; and if the said commissioners shall think proper to require a verification of the said schedule, they shall give notice in manner aforesaid to the party to appear before them to verify

the same, and such verification shall be made by the party in such manner, and such assessment thereupon shall be made, as herein-before directed, which assessment shall be final and conclusive; but nevertheless, in every instance where any person shall have neglected or refused to return such schedule according to the exigency of the precept of the said commissioners, or if any clerk, agent, or servant of such party as aforesaid, being summoned, shall have neglected or refused to appear before the commissioners to be examined, or if such party, or his clerk, agent, or servant as aforesaid, shall have declined to answer any question put to him by the said commissioners in writing or vivâ voce, or where the schedule delivered shall have been objected to as aforesaid, and such objection shall not have been appealed against within such reasonable time as is directed by this Act, or where any person, being required so to do, shall have neglected or refused to verify his statement or schedule, or his answers or examination in writing, or where the commissioners shall agree as aforesaid to allow the objections, or any of them, made by such inspector or surveyor, it shall be lawful for the said commissioners, and they are hereby required, in every such case, according to the best of their judgment, to settle and ascertain in what sums such person ought to be charged, and to make an assessment accordingly, which assessment shall be final and conclusive.

127. Where an Assessment is increased, the Commissioners may charge the party with the Penalty, not exceeding treble the amount of Duty.—In every case where the commissioners for general purposes shall have made any increased assessment upon the amount contained in the statement or schedule of the party to be charged or shall at any time during the continuance of this Act discover that any increase ought to be made, whether upon the surcharge of the inspector or surveyor, or from his information, or otherwise, it shall be lawful for them to charge such person in a sum not exceeding treble the amount by which the duties shall have been increased; (that is to say,) where the party shall have refused or neglected to deliver any statement or schedule, then in a sum not exceeding treble the amount of the sum which, according to the rate prescribed in schedule (D.), such person, in the judgment of the said commissioners, ought to be charged at, to be added to the assessment, and applied as directed by this Act in other cases of increased assessments; and in case a statement or schedule shall have been so delivered, then in a sum not exceeding treble the amount beyond the amount contained in such statement or schedule, unless such person shall in every such case make it appear to the satisfaction of the said commissioners that the omission complained of did not proceed from any fraud, covin, art, or contrivance, or any gross or wilful neglect.

128. Penalty on persons neglecting to deliver Schedules, or attend Summons of Commissioners.—If any person required by the commissioners for general purposes to make out and deliver any schedule to the person to whom the same ought to be delivered in pursuance of this Act, shall refuse or neglect so to do, or shall refuse or neglect to appear before the said commissioners, or to verify upon oath before them any statement or schedule by him delivered, within the time limited by such commissioners in pursuance of this Act, every such person so offending shall forfeit any sum not exceeding twenty pounds, and treble the duty at which he ought to be assessed.

129. Schedules may be amended.—Provided always, that if any person who shall have delivered a statement or schedule shall discover any omission or wrong statement therein, it shall be lawful for him to deliver an additional statement or schedule rectifying such omission or wrong statement, and such person shall not afterwards be subject to any proceeding by reason of such omission or wrong statement; and if any person shall not have delivered a statement or schedule within the time limited by the commissioners for that purpose, it shall be lawful for him to deliver a statement or schedule, in manner herein directed, at any time before a proceeding shall be had to recover the penalty herein mentioned and no proceeding shall be afterwards had for recovering such penalty; and if any proceeding shall have been actually had before the commissioners for recovering such penalty, it shall be lawful for the same commissioners, on due proof to their satisfaction that no fraud or evasion whatever was intended, to stay such proceedings, either on the terms of paying or without paying the costs then incurred, as the commissioners shall think fit; and if any proceeding shall have been commenced in any court, it shall be lawful for the commissioners to certify, that, in their judgment, no fraud or evasion was intended by the party making such omission, and it shall be lawful for any judge of

such court, on a summary application, to stay such proceedings on such terms as he shall think fit; or if such person shall have delivered an imperfect statement or schedule, and shall give to the commissioners a sufficient reason why a perfect statement or schedule cannot be delivered, the said commissioners, being satisfied therewith, shall give further time, and so from time to time, for the delivery of such statement or schedule; and such person shall not be liable to any penalty for not having delivered such statement or schedule within the time before limited, in case such person shall have delivered as perfect a statement or schedule as from the nature of the case he was enabled to give, and so from time to time as long as the commissioners shall grant further time as aforesaid.

130. Parties assessed or surcharged to the Duties in Schedule (D.) may appeal to Special Commissioners—Claims of Exemption for Income being less than L.150, to be determined by General Commissioners.—Provided always, that in any case in which an appeal is allowed to be made to the commissioners for general purposes against any assessment of the duties contained in schedule (D.) of this Act, or against any objection of the inspector or surveyor to such assessment, or against any surcharge of the said duties, it shall be lawful for the person assessed or charged, if he shall think fit, instead of appealing to the said commissioners for general purposes, to appeal to the commissioners for special purposes, upon giving notice thereof in writing to the inspector or surveyor within the time limited for notices of appeal to the commissioners for general purposes in similar cases; and thereupon every such appeal shall be heard and determined by two or more of the commissioners for special purposes who shall be directed by the commissioners of stamps and taxes to hear appeals in the district in which such appellant shall be chargeable and the determination of the said commissioners for special purposes shall be final and conclusive in the matter: Provided always, that no person who shall claim the exemption herein-after granted to persons whose annual income is less than one hundred and fifty pounds, shall be allowed to appeal to the said commissioners for special purposes; but that every such claim shall be determined by the commissioners for general purposes as herein-after directed.

131. Persons chargeable under Schedule (D.) may require the Proceedings in order to an Assessment to be had before Special Commissioners.—Provided also, that it shall be lawful for any person chargeable to the duties contained in the said schedule (D.), and who shall not claim the said exemption herein-after granted, to require, if he shall think fit, that all proceedings in order to an assessment upon him, in respect of profits and gains chargeable under the said schedule, shall be had and taken before the commissioners for special purposes in the manner herein-after directed, instead of the additional commissioners or the commissioners for general purposes; provided he shall deliver a notice of such request, together with the list, declaration, and statements of such profits and gains, to the assessor of the parish or place, to be by him transmitted to the inspector or surveyor of the district in which the same shall be chargeable, within the time to be limited by the general notice herein-before directed to be given for delivery of all such lists and statements as aforesaid; and thereupon the said inspector or surveyor shall examine the said list and statement, and shall compute and assess the duties which, according to his judgment, shall be chargeable upon the party under the said schedule (D.), and shall make a certificate of such assessment, and deliver the same, together with the said list, declaration, and statement, to the commissioners for special purposes, who shall examine the same and make or sign and allow such an assessment of the said duties as shall appear to them to be just and proper, subject to an appeal by the party to be charged, or by the inspector or surveyor objecting to such assessment, in like manner and under the like rules and regulations as in cases of appeal against assessments made by the said additional commissioners; and every such appeal shall be heard and determined by the commissioners for special purposes directed by the commissioners of stamps and taxes to hear appeals in such district; provided that if either the party to be charged, or the inspector or surveyor, shall apprehend the determination of the said commissioners for special purposes on such appeal to be erroneous in any particular, and shall then express himself dissatisfied therewith, the said commissioners, if required by him, shall state specially and sign the case on which the question arose, together with their determination thereon, and transmit the same to the commissioners of stamps and taxes for their opinion; and the said last-mentioned commissioners shall, with all convenient speed, state and subscribe their opinion on the case so transmitted, and

according to such opinion the assessment which shall have been the subject of appeal shall be altered or confirmed, and the decision of the commissioners of stamps and taxes shall be final and conclusive in the matter; and in every case in which an assessment shall be made by the said commissioners for special purposes, they shall notify the amount thereof to the party assessed, who shall cause the same to be paid to the receiver general of stamps and taxes, or the proper officer for receipt in England or Scotland, at such time or times and in such manner as the said commissioner shall direct; and in default of such payment the said commissioners shall make a duplicate of such assessment, and deliver the same, together with their warrant for levying the amount thereof, to the collector of the duties appointed by the commissioners for general purposes for the parish or place in which the party assessed shall reside; and such collector is hereby authorized and required to levy and raise the duties so assessed according to the exigency of such warrant.

132. Powers and authorities of General Commissioners may be exercised by Special Commissioners in certain cases.—Wherever by this Act authority is given to the commissioners for special purposes to make, sign, or allow any assessment, or to hear any appeal, then and in every such case all the powers and authorities, rules and regulations, which under or by virtue of this or any other Act may be exercised or put in force by the said additional commissioners or the said commissioners for general purposes, or by or under their warrant, order, or direction respectively, with relation to the making, signing, or allowing of any assessment, or to the proceedings on any appeal before them, or to the collecting, levying, and receiving of any of the duties hereby granted, shall and may lawfully be exercised and put in force by the said commissioners for special purposes, or by or under their warrant, order, or direction, with reference to any assessment to be made, signed, or allowed by such last-mentioned commissioners, or any appeal to be heard or determined by them.

133. Abatement on account of diminution of Income, how to be allowed.—If within or at the end of the year current at the time of making any assessment under this Act, or at the end of any year when such assessment ought to have been made, any person charged to the duties contained in schedule (D.), whether he shall have computed his profits or gains arising as last aforesaid on the amount thereof in the preceding or current year, or on an average of years, shall find, and shall prove to the satisfaction of the commissioners by whom the assessment was made, that his profits and gains during such year for which the computation was made fell short of the sum so computed in respect of the same source of profit on which the computation was made, it shall be lawful for the said commissioners to cause the assessment made for such current year to be amended in respect of such source of profit, as the case shall require, and in case the sum assessed shall have been paid, to certify under their hands to the commissioners for special purposes at the head office for stamps and taxes in England the amount of the sum overpaid upon such first assessment; and thereupon the said last-mentioned commissioners shall issue an order for the repayment of such sum as shall have been so overpaid; and such order shall be directed to the receiver general of stamps and taxes, or to an officer for receipt or collector of the duties granted by this Act, or to a distributor or sub-distributor of stamps, and shall authorize and require the repayment of the said sum so overpaid as aforesaid, in like manner as is herein-before provided with respect to the allowances to be granted under No. V. of schedule (A.) of this Act.

134. Abatement to be allowed when persons cease to exercise any Trade, or die before the end of the year, &c.—In case any person charged to the said duties under schedule (D.), whether the computation thereon shall have been made on the profits of one year or on an average, as herein allowed, shall cease to exercise the profession, or to carry on the trade, employment, or vocation, in respect whereof such assessment was made, or shall die, or become bankrupt or insolvent before the end of the year for making such assessment, or shall from any other specific cause be deprived of or lose the profits or gains on which the computation of duty charged in such assessment was made, it shall be lawful for such person, or his executors, or administrators, to make application to the commissioners for general purposes of the district within three calendar months after the end of such year; and on due proof thereof to their satisfaction the said commissioners shall cause the assessment to be amended, as the case may require, and give such relief to the party charged, or his executors or administrators, as shall be just; and in cases requiring the same the said commissioners shall direct, in

manner before-mentioned, repayment to be made of such sum as shall have been overpaid on the assessment amended or vacated: Provided always, that where any person shall have succeeded to the trade or business of the party charged, no such abatement shall be made, unless it shall be proved to the satisfaction of the said commissioners that the profits and gains of such trade or business have fallen short from some specific cause, to be alleged to them and proved since such change or succession took place, or by reason thereof; but such person so succeeding to the same shall be liable to the payment of the full duties thereon without any new assessment.

135. Commissioners to be assessed to Duties under Schedule (D.) as other persons—Not to be present during the consideration of their Statements.—The persons acting as commissioners in the execution of this Act shall be charged and assessed to the duties contained in schedule (D.), if liable thereto, in like manner as any other persons may be charged and assessed to the said duties: Provided always, that any commissioner whose statement or schedule shall be under consideration, or shall be concerned or interested therein, either for himself or for any other person in any character before described, shall have no voice, and shall not be present, except upon an appeal for the purpose of being examined vivâ voce by the commissioners then having his assessment or schedule under consideration, but shall withdraw during the consideration and determination thereof.

136. Commissioners to enter their Assessments in Books, and send Accounts to the Office of Stamps and Taxes.—The commissioners for general purposes acting in relation to the duties contained in schedule (D.) shall, in their respective books of assessment enter and cause to be entered the several amounts of the sums assessed by them; and they shall from time to time make out, and transmit to the commissioners of stamps and taxes, accounts of the amount of duty assessed by them, distinguishing the amount charged on each person, which accounts shall severally be made out with the particulars required by this Act; and they shall also from time to time make out, and transmit to the said commissioners of stamps and taxes, lists containing the name, description, and place of residence of every person assessed by them respectively, as soon as the same conveniently can be done, which lists shall be made out according to an alphabetical arrangement of the respective parishes or places of residence in their respective districts.

137. Assessments under Schedule (D.) to be entered, and Certificates of the amount to be delivered by a number or letter, without the name of the parties, where they intend payment to the Officer for Receipt.—All assessments upon profits or gains under schedule (D.) made by the commissioners for general purposes shall be entered in books, with the names and descriptions of the persons, corporations, companies, or societies to be charged therewith, and their respective places of abode set opposite thereto, and which entries shall respectively be numbered progressively, or lettered, or distinguished by numbers or letters, as the said commissioners shall think proper; and when and as soon as the said commissioners shall have caused to be made any such entry in such book, in case the person charged by such assessment shall have declared his intention to pay the duty to the proper officer for receipt within the time limited by this Act for payment thereof, and in case the said commissioners shall be satisfied with such declaration, they shall deliver to such person, or to such other person as shall be there attending on his behalf, a certificate under the hands of two or more of such commissioners, specifying the amount of the sums to be paid within one year upon such assessment; and every such certificate shall be numbered or lettered with the same number or letter as the entry in the book of the said commissioners to which such certificate shall relate shall be marked and numbered or lettered, without naming or otherwise describing the person charged thereby; which certificate shall, on production thereof be a sufficient authority to the said officer for receipt from time to time to receive from any person bearing and producing such certificate the amount of the sums therein contained, in such proportions thereof as by this Act are made payable by instalments, and at the times by this Act appointed for payment thereof, or in advance; and on the payment of the sums contained in any such certificate, or any proportion thereof, the said officer for receipt shall give certificates for the same, acknowledging the receipt of the sum paid on account of the certificate of the said respective commissioners by the number or letter marked thereon as before directed.

138. Commissioners to deliver Warrants to Collectors, except where parties

ARE ASSESSED BY A NUMBER OR LETTER.—In all cases where the commissioners shall not have received a declaration of the intended payment to the officer for receipt as aforesaid of the duty to be charged under Schedule (D.), or shall not be satisfied with such declaration, they shall deliver a duplicate of the assessments to the collector, with the names and descriptions of the parties charged therewith together with their warrants for collecting the same, in such form and under the like powers as they are authorized to collect the duty under any of the other schedules contained in this Act; and if after the receipt of any such declaration the duties shall not be duly satisfied and paid accordingly, the said commissioners shall cause the names of the defaulters, and the amount of duty assessed on each, to be inserted from time to time in the duplicate of such collector; and the warrant for collecting the same shall be of the like force and effect as if such names and sums had been inserted therein at the time of issuing such warrant.

139. DUPLICATES OF ASSESSMENTS TO BE DELIVERED TO OFFICERS FOR RECEIPT, AND DUTIES TO BE PAID TO THEM, &c.—It shall be lawful for the respective commissioners for general purposes to issue out and deliver to the respective officers for receipt duplicates of the assessments made by them, containing the sums assessed on every person to whom a certificate hath been delivered by letter or number, together with the number or letter set opposite thereto in their respective books before mentioned, without naming such persons, with their warrants for receiving the duties charged by such commissioners respectively when the same shall become payable as aforesaid; and all such sums shall be paid to the respective officers for receipt, and such part thereof as shall not be so paid to them may be levied and collected as herein is mentioned; and if not so paid, levied, or collected, the same shall be recoverable as a debt to the Queen's Majesty, with full costs of suit, and all charges and expenses attending the same.

140. PERSONS CHARGED TO PAY THE DUTIES TO THE PROPER OFFICER FOR RECEIPT BEFORE THE DAYS APPOINTED BY THE ACT; AND IN DEFAULT THE DUTIES MAY BE LEVIED.—The duties payable on such last-mentioned assessments shall be paid to the proper officer for receipt by such instalments as by this Act is directed, before the respective days appointed for such payments, according to the regulations of this Act, or by three or two instalments, or in one sum in full, as the parties shall choose; and the certificates hereby required to be given on such payments shall be delivered to the respective commissioners, or to one or more of them, or to their clerk, at their office, before the times when the same are hereby made payable, taking his or their receipt for the same, which receipt shall be a sufficient discharge for the money so paid in satisfaction of so much of the assessment as shall be mentioned in such certificate to be so paid; and if any person shall neglect to pay such duties at the time and in the manner hereby directed for payment thereof or, having paid the same, shall neglect to deliver the certificate required to be given on such payment as herein-before directed, it shall be lawful for the commissioners for general purposes, and they are hereby required, to deliver a duplicate of all sums assessed on any person who shall have made default in paying or accounting for the payment of the same, together with their warrant, to such collector as they shall appoint to levy the sum in arrear and unpaid, and such duplicate shall be made out, and such sums shall be levied, according to the regulations of the said Acts relating to the duties of assessed taxes.

141. DUTIES MAY BE PAID IN ADVANCE, SUBJECT TO DISCOUNT.—It shall be lawful for any person to pay in advance to the receiver general of stamps and taxes, or to the proper officer for receipt, any sum of money charged as aforesaid, and to require a certificate acknowledging such payment; and it shall be lawful for the said receiver general or officer for receipt, on production of the notice or certificate of such assessment at the time of payment of the said duty in advance (the sum so paid not in any case to be less than the sum which appears by such certificate to be payable by two instalments), to make an allowance, at the rate of four pounds per centum per annum, out of the sum so paid in advance, calculated upon such sum for the period by which the same shall be paid sooner than the period prescribed by this Act for the payment thereof; and in every such case the said receiver general or officer for receipt shall give the person paying the same a certificate of such payment, specifying therein the number of instalments thereby discharged, and the amount of the allowance for such prompt payment, and referring thereby to the notice or certificate of assessment then produced, and the name, number, or letter therein mentioned; and all such allowances shall be made at the time of paying the said duties; and such certificates as aforesaid, being delivered at the respective offices

of the commissioners for executing this Act, shall be received by them as cash in discharge of the assessments, and shall be allowed to them in their account.

142. One Certificate or separate Certificates shall be given as required for the Duties so paid—On delivery of Certificates, to the Commissioners, the Clerk to give a Receipt, which shall be a Discharge for the Duties.—Upon the payment of any such sum of money as aforesaid the said receiver general or officer for receipt shall give such certificate as aforesaid for the whole of the sums so paid, or separate certificates in like form for such portions thereof, as shall be required, which certificates shall severally be cut off indentwise from the counter-cheques thereof, which counter-cheques are to remain with the said receiver general or officer for receipt; and every such certificate shall be denominated in the body thereof to be on account of payments made in discharge of the duties assessed by virtue of this Act; and upon the delivery of any such certificate as last aforesaid to the said commissioners for general purposes, or at their office, in discharge of the whole or any part of the said duties assessed or charged upon the person delivering such certificate, the said commissioners or their clerk shall, if required, indorse in writing on the back of the certificate to be given by them or him in such case the amount of the number of instalments of the said duties to be discharged by such payments, which receipts of the said commissioners or their clerks as aforesaid shall be received, without further proof, as evidence of such payments, in all courts and places and before all persons whatever.

[*Ss.* **143–145** *rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*).]

146. Duties in Schedule (E.) to be charged under the following Rules.—The duties hereby granted contained in the schedule marked (E.) shall be assessed and charged under the following rules; which rules shall be deemed and construed a part of this Act, and to refer to the said last-mentioned duties, as if the same had been inserted under a special enactment.

Schedule (E.)

Rules for charging the said Duties.

First. Duties to be charged for all Salaries, Fees, or Profits; after deducting Duties chargeable on the same by Act of Parliament—Provision respecting Arrears on quitting office or dying.—The said duties shall be annually charged on the persons respectively having, using, or exercising the offices or employments of profit mentioned in the said schedule (E.), or to whom the annuities, pensions, or stipends mentioned in the same schedule shall be payable, for all salaries, fees, wages, perquisites, or profits whatsoever accruing by reason of such offices, employments, or pensions, after deducting the amount of duties or other sums payable or chargeable on the same by virtue of any Act of Parliament, where the same have been really and bonâ fide paid and borne by the party to be charged; and each assessment, in respect of such offices or employments shall be in force for one whole year, and shall be levied for such year without any new assessment, notwithstanding a change may have taken place in any such office or employment, on the person for the time having or exercising the same; provided that the person quitting such office or employment, or dying within the year, or his executors or administrators, shall be liable for the arrears due before or at the time of his so quitting such office or employment, or dying, and for such further portion of time as shall then have elapsed, to be settled by the respective commissioners, and his successor shall be repaid such sums as he shall have paid on account of such portion of the year as aforesaid; and each assessment in respect of such annuity, pension, or stipend, shall be in force for one whole year, unless the same shall cease or expire within the year, by lapse, death, or otherwise, from which period the assessment thereon shall be discharged:

Second. Duties to be assessed for all Offices in the place where the Commissioners execute their Offices.—The said duties to be assessed by the respective commissioners for all the offices in each department in the place where the said commissioners shall execute their offices, although certain of the offices in the same department may be executed elsewhere, and shall be due and payable from the respective officers, and their respective successors, for the time being:

Third. Description of Offices to be charged.—The said duties shall be paid on all public offices and employments of profit of the description herein-after mentioned within Great Britain; (videlicet,) any office belonging to either House of Parliament, or to any court of justice, whether of law or equity, in England or Scotland, Wales, the duchy of Lancaster, the duchy of Cornwall, or any criminal or justiciary or ecclesiastical court, or court of admiralty, or commissary court, or court-martial; any public office held under the civil government of her Majesty, or in any county palatine, or the duchy of Cornwall; any commissioned officer serving on the staff, or belonging to her Majesty's army, in any regiment of artillery, cavalry, infantry, royal marines, royal garrison battalions, or corps of engineers or royal artificers; any officer in the navy, or in the militia or volunteers; any office or employment of profit held under any ecclesiastical body, whether aggregate or sole, or under any public corporation, or under any company or society, whether corporate or not corporate; any office or employment of profit under any public institution, or on any public foundation, of whatever nature or for whatever purpose the same may be established; any office or employment of profit in any county, riding, or division, shire or stewartry, or in any city, borough, town corporate, or place, or under any trusts or guardians of any fund, tolls, or duties, to be exercised in such county, riding, division, shire, or stewartry, city, borough, town corporate, or place; and every other public office or employment of profit of a public nature:

Fourth. Fees or other Emoluments may be estimated on the Profits of the preceding year, or on an Average of three years.—The perquisites to be assessed under this Act shall be deemed to be such profits of offices and employments as arise from fees or other emoluments, and payable either by the crown or the subject, in the course of executing such offices or employments, and may be estimated either on the profits of the preceding year, or of the fair and just average of one year of the amount of the profits thereof in the three years preceding; such years in each case respectively ending on the fifth day of April in each year, or such other day of each year on which the accounts of such profits have been usually made up:

Fifth. The Duties on Salaries, Fees, Pensions, &c. payable at any Public Office, &c. to be stopped out of the same.—In all cases where any salaries, fees, wages, or other perquisites or profits, or any annuities, pensions, or stipends, shall be payable at any public office, or by any officer of her Majesty's household, or by any of her Majesty's receivers or paymasters, or by any agent employed in that behalf, the duties chargeable under this Act in respect of such salaries, fees, wages, perquisites, or profits, or in respect of such annuities, pensions, or stipends, shall be detained and stopped out of the same, or out of any money which shall be payable upon such salaries, fees, wages, perquisites, or profits, or upon such annuities, pensions, or stipends, or for the arrears thereof whenever the same shall happen, and be applied to the satisfaction of the duties on such offices or employments, or on such annuities, pensions, or stipends respectively, (not being otherwise paid), in the manner directed by this Act; and whenever the same so payable shall be assessed by the commissioners for general purposes in their respective districts, they shall transmit an account of the amount of the duty assessed to the office where the same are payable in order that the amount so assessed may be there stopped or detained:

Sixth. Duties on Salaries, &c. not arising from Offices mentioned in the foregoing Rule to be stopped by persons paying such Salaries, Fees, &c.—In all cases where the salaries, fees, wages, allowances, or profits of any officer chargeable to the said duties shall not arise out of any of the offices mentioned in the foregoing rule, but shall arise from any other office or employment of profit chargeable to the said duties, and salaries, fees, wages, perquisites, or profits shall be payable at such office by any officer thereof, or by any receiver of the same respectively, or by any agent employed in that behalf, the duties chargeable under this Act in respect of such salaries, fees, wages, perquisites, or profits, shall be detained and stopped out of the same, or out of any money which shall be paid upon such salaries, fees, wages, perquisites, or profits or for arrears thereof, whenever the same shall happen, and be applied to the satisfaction of the duties (not otherwise paid) in the manner directed by this Act:

Seventh. Such portion of the Duties as are charged with sums payable to any other persons to be deducted out of such sums.—Such portion of the said duties

on offices or employments of profit, or on annuities, pensions, or stipends, as are charged with any sum of money payable to any other person, shall be deducted out of the sum payable to such other person as a like rate on such sum would amount unto; and all such persons, their agents and receivers, shall allow such deductions and payments upon receipt of the residue of such sums:

Eighth. Duty paid by the Principal in an Office upon Salary paid to his Deputy or Clerk to be deducted out of such Salary.—Such portion of the said duties charged on any office or employment of profit executed by any deputy or clerk, or other person employed under the principal in such office, and paid by such principal out of the salary, fees, wages, perquisites, or profits of such principal, shall be deducted out of the salary or wages so payable as a like rate on such salary or wages would amount unto; and all such deputies, clerks, and other persons so employed shall allow to their respective principals such deductions and payments upon the receipt of the residue of such salaries or wages:

Ninth. Payments on Receipt of Salaries, &c. or in passing Accounts, or upon the Receipt of Pensions, to be deducted in estimating Duty.—In estimating the duty payable for any such office or employment of profit, or any pension, annuity, or stipend, all official deductions and payments made upon the receipt of the salaries, fees, wages, perquisites, and profits thereof, or in passing the accounts belonging to such office, or upon the receipt of such pension, annuity, or stipend, shall be allowed to be deducted; provided a due account thereof be rendered to the said Commissioners, and proved to their satisfaction:

Tenth. Pensions payable out of a branch of Revenue to be charged by the Commissioners there.—In all cases where any annuity or pension shall be payable out of any particular branch of the public revenue, and at the office of that branch of revenue, the commissioners acting for that department shall have authority to assess and levy the same as a salary or wages payable thereout.

147. Persons assessed for Offices to be deemed to have exercised the same at the Head Office—In what Departments Officers shall be assessed.—Every person to be assessed for his office or employment shall be deemed to have exercised the same at the head office of the department under which such office or employment shall be held, and shall be rated for such office or employment as if exercised at such head office, although the duties of such office or employment shall be performed, or the profits or any part thereof arising from such office or employment shall be payable elsewhere, within or out of Great Britain; and all assessments made on any inferior officer, wherever he shall exercise his office or employment, shall be rated accordingly in the same district where such head office shall be established; and every office shall be deemed to belong to and to be assessed by or under the principal officers of that department by or under whom the appointment to such office was made; provided that where such appointment shall be made by any inferior officer in any department, then such office shall be assessed by the same commissioners by whom such inferior officer shall be chargeable for his office: Provided that where any such appointment shall be held under the great seal or privy seal, either of England or Scotland, or shall be made under the royal sign manual, or where any such appointment shall be under the hands or seals of the Treasury, and the same shall not be exercised in the department of the Treasury, then the officer holding the same shall be assessed in that department where the office shall have been executed: Provided also that nothing herein contained shall be construed to limit the right herein-before given to commissioners of the district of assessing offices before described within their respective jurisdictions, although such offices, or any of them, may not be held under their appointment, or the profits of such offices may not be payable by them or their order.

[*S.* **148** *rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*).]

149. Certain Allowances to Trustees of British Museum, and the like Exemptions as allowed to Charitable Institutions.—Provided always, that the like allowances shall be granted to the trustees of the British Museum in respect of any charge under schedule (A.) to be made on the lands and tenements vested in such trustees, as are granted to colleges and other properties mentioned in No. VI. of that schedule; and the like exemptions shall be allowed in respect of any dividends of stock vested in

such trustees, or any of them, or in any other for their use, as are granted to charitable institutions by this Act; and no salary or payment made or to be made out of her Majesty's Exchequer to such trustees for the use of such institutions shall be charged at the said Exchequer; provided all salaries of officers or persons employed under the said trustees shall be charged on the said officers respectively.

150. COMMISSIONERS ON OFFICES TO TAKE THE OATHS PRESCRIBED, AND TO HAVE POWER TO APPOINT CLERKS, ASSESSORS, AND COLLECTORS FROM THE OFFICERS IN THEIR DEPARTMENTS—ALL SUCH ASSESSORS SHALL HAVE ACCESS TO DOCUMENTS, AND MAY REQUIRE RETURNS.—The several commissioners authorized to act in the execution of this Act in relation to the duties on offices or employments of profit, and on pensions or stipends, as soon after their appointment respectively as conveniently can be done in their respective departments, shall meet in some convenient place, in order to qualify themselves by taking the oaths prescribed by the said recited Acts relating to the duties of assessed taxes, and shall have power to elect a clerk and assessors, and, in cases where the duties cannot be stopped and detained at the department of office of the said commissioners or for which the said respective commissioners shall act, collectors of the said duties to be assessed by them from and amongst the officers in their respective departments, and separate assessors and collectors in each such department, under the cognizance of the same commissioners; which assessors shall, within a time to be fixed by the respective commissioners, deliver to them their certificates of assessment, in writing under their hands, to be verified upon their oaths, of the full and just annual value of all offices and employments of profit chargeable under this Act in the department for which they shall be appointed assessors, and of all pensions and stipends, estimated according to this Act with the names and surnames of the several officers and persons entitled to pensions or stipends, and the several sums of money they ought to pay by virtue of this Act, at the rate of sevenpence for every twenty shillings of such value, without abatement or deduction, and without concealment or favour, upon pain of forfeiture for every neglect in the premises of any sum not exceeding one hundred pounds nor less than twenty pounds; which said assessors are hereby strictly enjoined and required with all care and diligence, to charge and assess themselves, and all other officers, clerks, and persons employed in their respective departments of office, and, with respect to the duty on pensions or stipends, to charge and assess all persons entitled unto any such pensions or stipends, and respectively to make their assessments according to the provisions of this Act; and every such assessor shall have free access to all documents and papers whatever in their respective offices touching the salaries, fees, wages, perquisites, and profits of any officer, clerk, or person aforesaid, belonging to their respective offices, and touching the amount of the respective pensions or stipends, and shall be at liberty, whenever the same may be necessary, to require returns from the parties themselves, according to the provisions of this Act, that they may be enabled to make a true assessment in pursuance thereof.

151. PROFITS ARISING FROM OFFICES NOT REQUIRED TO BE STATED IN PURSUANCE OF ANY GENERAL NOTICE.—Provided always, that no person shall, in respect of the profits arising from offices or from pensions or stipends chargeable before the respective commissioners appointed for those purposes in their respective departments of office as aforesaid, be liable to the penalty herein contained for not returning a statement of the profits arising from such office, pension, or stipend, in pursuance of any general notice herein-before directed, nor in any case except where the assessor for those profits respectively shall have required a return thereof in pursuance of the next preceding clause.

152. THE FULL VALUE OF OFFICES TO BE STATED, ALTHOUGH EXEMPTIONS ARE CLAIMED.—In every case where any person holding such offices or employments, or being entitled unto any pension or stipend as aforesaid, shall claim to be exempt from such assessment, the commissioners shall nevertheless set down in such assessment the names of such persons, and the full and just annual value of such offices, employments, pensions, or stipends; and the claim to such exemption shall be preferred and examined, and the merits thereof shall be heard and determined under the regulations of this Act with respect to other assessments.

153. DEPUTIES TO PAY WHERE THEY ARE IN THE RECEIPT OF THE PROFITS—OFFICERS RECEIVING SALARIES OR FEES FOR OTHERS TO BE ANSWERABLE FOR DUTIES.—Where any office or employment of profit chargeable by this Act is or shall be executed by deputy, such deputy shall, in all cases where he shall be in receipt of the profits thereof, be

answerable for and shall pay such assessment as shall be charged thereon, and deduct the same out of the profits of such office or employment; and where the salaries, fees, wages, emoluments, or profits of any officer or officers in any such office shall be receivable by any one or more of the said officers for the use of such officer, or as a fund to be divided amongst such officers in certain proportions, the officer or officers receiving such salaries, fees, wages, perquisites, or profits, shall be answerable for the duties charged thereon, and shall pay the same, and deduct the same out of the funds provided for such respective offices or employments, before any division or apportionment thereof, and, in case of refusal or nonpayment thereof, shall be liable to such distress as by this Act is prescribed against any person having the office or employment and to all other remedies and penalties respectively herein contained.

154. Assessors shall be furnished with accounts of Salaries, &c. in Public Departments; and may require Returns of Salaries and Profits of Offices—To make up their Assessments from the Documents in their Offices, and deliver them to the Commissioners.—The proper officers, or their respective deputies, and the receivers and paymasters in every public department of office, and in every other office for which commissioners are hereby intended to be appointed for raising the duties hereby charged on such offices respectively, and any agent by whom any salaries, fees, wages, perquisites, or profits shall be payable, shall, upon request to him made by the assessors of the said duties, deliver gratis true lists or accounts of all such salaries, fees, wages, perquisites, and profits received by him, and belonging to such officers respectively, and of all pensions and stipends payable to them respectively, for the better guidance of the said assessors in charging the same; and if the said assessors shall be dissatisfied with such accounts, it shall be lawful for them to require any officer whose office shall not be truly valued in such account to prepare and produce to them, within the like period of time as is limited for the returns of other accounts by this Act, a list or account of the salaries, fees, wages, perquisites, and profits of the office exercised by him, which returns such officer shall be obliged to make under the penalties and forfeitures contained in this Act for not making other returns hereby required; and from the documents and papers in their respective offices the said assessors shall make their assessment upon the persons holding such offices, or entitled unto such pensions respectively, according to the annual value thereof, and shall, in like manner as is before directed with respect to assessors for any parish or place, bring in their said assessments to the respective commissioners for their allowance, who shall forthwith set their hands to the same, which assessments shall be in force for one year, commencing and payable at the like periods as the assessments in parishes are made payable; and the said respective commissioners for the duties on offices shall, in all cases where collectors are authorized to be appointed, cause the like duplicates to be made thereof, and delivered to collectors, with like warrants to collect the said duties, as are before directed to be given to collectors for any parish or place; and the said collectors of the said duties on offices shall have the like authority to demand and levy the said duties as is herein given to collectors of any parish or place: Provided always, that in all cases where the duties and any salaries, fees, wages, perquisites, or profits of any public office shall be detained and stopped out of the same or out of any monies which shall be paid thereupon, the respective commissioners shall cause the like duplicates to be delivered to the proper officers in the respective offices, who shall keep true accounts of all monies stopped and detained under the authority of this Act, and shall be answerable for the same; and the money so detained of the duty on annuities, pensions, or stipends shall be accounted for and paid in the manner herein-after directed.

155. Duties on Offices which cannot be stopped to be certified, in case of non-payment, to the Commissioners of the District where the parties reside, who shall issue their Warrants for levying the same.—Where any person having, using, or exercising any office or employment of profit which shall be charged to the duties by this Act granted thereon, and the said duties cannot be detained and stopped in the hands of the proper officer, or in the hands of any agent employed to pay the monies due in respect of the said office or employment, or the same monies shall have been paid over to the person having, using, or exercising the said office of employment, and such person shall refuse or neglect to pay the sum of money charged upon him, the commissioners for raising the duties on the said offices shall and may, by writing under their hands and seals, certify such neglect or refusal, and the sum payable by virtue of

this Act, to the commissioners for executing this Act, in relation to lands, tenements, and hereditaments, in the parish or place where such officer shall reside; and such last-mentioned commissioners are hereby authorized and required, upon receipt of such certificate, by warrant under their hands and seals, to authorize and empower the respective collectors of the said duties, or the collectors of the parish or place where such officer shall reside, to levy the same, by such ways and means as they are authorized to levy the duties charged by them respectively in pursuance of this Act; and such collectors are hereby required to execute such warrant accordingly, and which shall be executed under the like powers and in like manner as is herein-after directed, and as if such officer were charged to the said duties in such parish or place; and the monies arising thereby shall be paid to the collectors charged to the said duties on such office or employment.

156. No Qualification to be required of Commissioners on Offices and Public Annuities.—Provided always, that no qualification shall be required of any of the officers or persons herein described to be commissioners for the duties on offices, or on employments of profit, or on pensions, stipends, annuities, interests, or dividends, contained in the said several schedules, who shall act as such commissioners by virtue of their several offices, other than such offices respectively, anything contained to the contrary notwithstanding.

157. Officers acting in raising the Duties on Offices liable to Penalties for default.—The respective assessors and collectors appointed to raise and assess, or levy, collect, and pay, the sums of money to be charged on offices or employments of profit, or on annuities, pensions, or stipends payable by her Majesty by virtue of this Act, and also the inspectors and surveyors acting in relation to the said duties, shall respectively be subject to the penalties and forfeitures for refusing or neglecting the performance of their duty, or for being guilty of any fraud or abuse in executing the same, as are inflicted on such officers respectively for the like offences by the said Acts relating to the duties of assessed taxes.

158. When Duties are to be detained.—Provided always, that such of the said duties granted by this Act which may be detained or stopped and deducted out of the sums in respect whereof they shall be charged or deducted, shall be respectively detained at such times in each year as the said sums shall be payable to the person entitled thereto.

159. What Deductions shall not be allowed in computing the Duties to be charged under this Act.—In the computation of duty to be made under this Act in any of the cases before mentioned, either by the party making or delivering any list or statement required as aforesaid, or by the respective assessors or commissioners, it shall not be lawful to make any other deductions therefrom than such as are expressly enumerated in this Act, nor to make any deduction on account of any annual interest, annuity, or other annual payment to be paid to any person out of any profits or gains chargeable by this Act, in regard that a proportionate part of the duty so to be charged is allowed to be deducted on making such payments, nor to make any deduction from the profits or gains arising from any property herein described, or from any office or employment of profit, on account of diminution of capital employed or of loss sustained in any trade, manufacture, adventure, or concern, or in any profession, employment, or vocation.

160. Commissioners to settle Differences respecting Deductions to be made on account of Duties.—If any difference shall arise between tenant and landlord, or any other persons to whom any interest, rent, rent-charge, annuity, fee-farm rent, rent service, quitrent, feu duty or other rent or annual payment shall be payable, touching the sums to be deducted thereout on account of the duties hereby charged having been paid, or between the occupier for the time being and any former occupier on any lands, tenements, hereditaments, or heritages, his executors, administrators, or assigns, touching the proportion of duty to be paid or allowed by either party, the respective commissioners for general purposes in their several districts shall have authority, and they are hereby required, to settle the proportions of such payments and deductions as shall be according to the directions of this Act, and in default of payment to levy the same respectively under the like powers as they might have levied the same if the assessment had been made in the same proportions, and to pay over the same to the collector or party as the case may require; and the judgment and determination of such commissioners shall be final.

161. Inspectors and Surveyors to have access to Returns and Assessments, with liberty to amend them and make Surcharges—48 Geo. 3, c. 141—50 Geo. 3, c. 105.—The several inspectors and surveyors appointed or to be appointed shall be and they are hereby empowered respectively to inspect and examine all and every the returns made by any person under the directions of this Act; and in case any of them shall be dissatisfied either with the returns so made, or the estimate of the assessor thereon, or shall discover any error or omission in such estimate, or that any deduction hath been allowed not authorized by this Act, they shall charge the same, according to the best of their judgment, in the full amount at which the same ought to be charged; and the said inspectors and surveyors shall also be at liberty respectively to inspect and examine all and every the assessments of the said duties, or any of them, made under the authority of the respective commissioners before mentioned, as well before as after the commissioners shall have signed and allowed the said assessments, and before such allowance to correct and amend such assessments, if they shall respectively think fit; and every person in whose custody such returns are is hereby required, upon the request of any such inspector or surveyor as aforesaid, to deliver the same into his custody for the purposes of this Act, taking his receipt for the same; and every person in whose custody any such assessments shall be is also hereby required, upon the request of such inspector or surveyor as aforesaid, to produce the same; and such inspector or surveyor is hereby authorized to take charge of the same until he shall have taken such copies of or extracts from the same as may be necessary for his better information; and every person wilfully obstructing such inspector or surveyor in the due performance of his duty as aforesaid shall forfeit the sum of fifty pounds; and if any such inspector or surveyor shall find or discover, upon his survey or examination, or otherwise, that any person, corporation, company, or society, who ought to be charged with the said duties or any of them shall have been omitted to be charged therewith, or shall have been underrated in the assessment, or that any person, or the officer of any corporation, company, or society, liable to the said duties or any of them, being required so to do, hath neglected or refused to make a return according to the directions of this Act, or that the assessors have neglected to require a return in any case where a return ought to have been required from any person, corporation, company, or society, according to the intent of this Act, so that such person, corporation, company, or society shall not have been fully charged to the said duties, then and in every such case the said surveyor or inspector shall certify the same in writing under his hand, together with an account of every default, and the full amount of the duty which ought to be paid by way of surcharge, to the said respective commissioners for putting in execution this Act in relation to the duties on which such surcharge shall be made, in the manner and under and subject to the rules and regulations prescribed and contained in the said two several recited Acts of the forty-eight and fiftieth years of the reign of King George the Third, herein-before recited or referred to.

162. Surcharges, if confirmed, to be in Treble Duty, in certain cases—Upon appeal, the whole or a part of the Treble Duty may be remitted—Payment of Overplus—Increase of Duty, &c. by surcharge to be certified to Commissioners of Stamps and Taxes who shall have authority to reward Inspector or Surveyor. —Upon every surcharge allowed upon appeal by the said commissioners, upon the certificate of the inspector or surveyor, as directed by this Act, in cases where no such declaration shall have been delivered as in the said recited Act of the fiftieth year of the reign of King George the Third is required, or the commissioners shall be dissatisfied with the same, the assessment shall be made in treble the rate of duty prescribed in the said respective schedules of this Act on the amount of the duty surcharged: Provided always, that if upon appeal such declaration as aforesaid shall have been delivered, and if the said commissioners shall be satisfied therewith, and shall be of opinion that there was any reasonable cause of controversy on the part of the appellant on the subject matter of appeal, and that the party had not been guilty of any wilful default, neglect, or omission, nor wilfully done any Act with intention to defraud the revenue, it shall be lawful for the said commissioners who shall have determined the said appeal, although they shall confirm or allow the surcharge, or a part thereof only, at the same time to remit and strike off the whole or any part of the said treble duty; and the overplus of the sum so charged above the said rate or duty, and which shall not be so remitted or struck off as aforesaid, shall be paid to the officer for receipt, to the use of her Majesty;

which increase of duty, made by occasion of such surcharge, together with the overplus aforesaid above the said rate of duty, and all other increase of duty occasioned by the surcharge or information of any inspector or surveyor under this Act, the commissioners for executing this Act who shall have confirmed such surcharge or made such increase shall at the same meeting certify under their hands to the commissioners of stamps and taxes, who shall have authority, under and subject to such rules and regulations as shall have been made by the Treasury in that behalf, to direct the said officer for receipt to pay to the said inspector or surveyor, out of the increased duty and overplus aforesaid, such sum of money as shall appear to the said commissioners of stamps and taxes to be an adequate reward for the labour and diligence of the said inspector or surveyor.

163. EXEMPTION OF PERSONS WHOSE INCOME IS LESS THAN L.150 PER ANNUM.—Provided always, that any person charged or chargeable to the duties granted by this Act, either by assessment, or by way of deduction from any rent, annuity, interest, or other annual payment to which he may be entitled, who shall prove before the commissioners for general purposes, in the manner herein-after mentioned, that the aggregate annual amount of his income, estimated according to the several rules and directions of this Act, is less than one hundred and fifty pounds, shall be exempted from the said duties, and shall be entitled to be repaid the amount of all deductions, or payments on account thereof in the manner herein-after directed, except so much of such duties as the person claiming such exemption shall or may be entitled to charge against any other person, or to deduct or retain from or out of any payment to which such claimant may be or become liable; and such exemption shall be claimed and proved, and the proceedings thereupon shall be had, before the commissioners for general purposes in the district where the claimant shall reside, pursuant to and under the powers and provisions by which the duties in schedule (D.) are herein directed to be ascertained and charged, but nevertheless subject to the rules and directions herein-after contained.

164. MODE OF CLAIMING EXEMPTION, AND OF PROCEEDING ON SUCH CLAIM—IF INSPECTOR OR SURVEYOR OBJECT TO THE CLAIM, THE SAME TO BE DETERMINED BY THE COMMISSIONERS FOR GENERAL PURPOSES.—Every person claiming to be entitled to such exemption as last aforesaid shall, within the time to be limited as herein-before directed for delivering in the list, declarations, and statements required by this Act, (or within such further time as the said commissioners shall for special cause assigned allow,) deliver or cause to be delivered to the assessor of the parish or place where such claimant shall reside a notice of his claim for such exemption, together with a declaration and statement signed by such claiment, and in such form as may be provided under the authority of this Act, declaring and setting forth therein all the particular sources from whence the income of such claimant shall arise, and the particular amount arising from each source, and also every sum of annual interest or other annual payment reserved or charged thereon, whereby the income shall or may be diminished, and also every sum which such claimant may have charged or may be entitled to charge against any other person for or on account of the duty made payable by this Act, or which he may have deducted or retained or may be entitled to deduct or retain, under the authority of this Act, from or out of any payment to which he may be or become liable; which declaration and statement every inspector or surveyor shall be at liberty to peruse and examine, and to take copies of or extracts from, under the like powers as in other cases; and in every case where such claim for exemption shall be made in manner aforesaid, the assessor shall transmit such notice, declaration, and statement to the said commissioners; and if the inspector or surveyor shall not object to such declaration within forty days after such transmission, or within such further time as the commissioners, on just cause, shall allow to him to make such objection, it shall be lawful for the said commissioners to allow such claim of exemption, and to discharge the assessment made upon any property or profits of such person either in his own name or in the name of his lessee or tenant, within the district of the said commissioners; and if it shall appear that any property or profits of such person is or are assessed or liable to be assessed in any other district, the said commissioners shall certify to the commissioners of stamps and taxes, in such form as shall be provided under the authority of this Act, the allowance of such exemption; and the said last-mentioned commissioners shall direct the assessment made upon any property or profits of such claimant, either in his own name or in the name of his lessee or tenant, in any other district, to be discharged, and the same shall be discharged accordingly: Provided always, that in case the inspector

or surveyor shall object to any such claim as aforesaid in writing, suggesting to the said additional commissioners that he hath reason to believe that the income of such claimant, or any other particular required by this Act to be declared or set forth in such declaration and statement as aforesaid, is not truly or fully declared or set forth therein in any specified particular, then and in such case the merits of such claim for exemption shall be heard and determined upon appeal before the commissioners for general purposes, under and subject to such rules, regulations, and penalties, as other appeals under this Act are directed to be heard and determined; and if such claim shall be allowed on appeal as aforesaid, the said commissioners for general purposes shall grant and issue all necessary certificates consequent thereon.

165. On proof that persons entitled to Exemption have been charged Duties by deduction from any Annuity, Dividend, Rent, &c. Commissioners to grant a Certificate thereof, which shall authorize the Collector or Receiver to repay the amount of such Duties.—Provided always, that if it shall be proved to the satisfaction of the commissioners for general purposes that any person whose claim for exemption has been allowed in manner aforesaid has been charged to and has paid any of the duties hereby granted, by way of deduction from any rent, annuity, interest, or other annual payment to which he may be entitled, and from which a deduction is authorized to be made by this Act, or that such person has been assessed and has paid such duties in respect of any annuity, dividend, pension, or stipend payable to him out of the public revenue of the United Kingdom, then and in such case it shall be lawful for the said commissioners for general purposes to certify what shall have been so proved before them to the commissioners for special purposes at the head office for stamps and taxes in England, by a certificate, in such form as shall be provided under the authority of this Act, specifying and describing the amount and the particular nature of the payment out of which and the name and place of abode of the person by whom such deduction as aforesaid shall have been made, and specifying also the amount and description of the annuity, dividend, pension, or stipend, in respect of which such claimant has been assessed, and the duties whereon he has paid; and thereupon the said last-mentioned commissioners shall issue to such claimant an order for the repayment to him of the amount of the duties certified to have been paid as aforesaid; and such order shall be directed to the receiver general of stamps and taxes, or to an officer for receipt or collector of the duties granted by this Act, or to a distributor or subdistributor of stamps, and shall authorize and require the repayment of the said duties in like manner as is herein-before provided with respect to the allowances to be granted under No. V. of schedule (A.) of this Act.

166. Penalty for making Fraudulent Claims of Exemption.—If any person shall be guilty of any fraud or contrivance in making any such claim, or in obtaining any such exemption or any such certificate as aforesaid, or shall fraudulently conceal or untruly declare any income or amount of income, or any sum which he may have charged or been entitled under the authority of this Act to charge against any other person, or which he may have deducted or retained, or have been or be entitled as aforesaid to deduct or retain, from or out of any payment to which such person claiming exemption as aforesaid may be or become liable, or if any such person shall fraudulently make a second claim for the same cause, every such person so offending in any of the cases aforesaid shall forfeit the sum of twenty pounds, and treble the duty chargeable in respect of all the sources of his income, and as if such claim had not been allowed; and if any person shall knowingly and wilfully aid, abet, or assist any such person in committing any such fraud as aforesaid, the person so aiding, abetting, or assisting shall forfeit the sum of fifty pounds.

167. Income arising from Lands, how to be estimated with reference to Claims for Exemption.—The annual value of lands, tenements, hereditaments, or heritages, belonging to or in the occupation of any person claiming the said exemption, shall be estimated, for the purpose of ascertaining his title to such exemption, according to the rules and directions contained in the said several schedules (A.) and (B.) respectively; . . . where such claimant shall be the proprietor as well as the occupier of any such lands, tenements, hereditaments, or heritages, the amount deemed . . . to be the income arising from the occupation of such lands, tenements, hereditaments, or heritages, shall be added to the amount of the full annual value thereof, and the aggregate amount shall be deemed for the purpose aforesaid to be the income of such claimant arising from

the lands, tenements, hereditaments, or heritages of which he shall be the proprietor and occupier as aforesaid; . . . . . .

S. 167 *in part rep.* 59 & 60 *Vict. c.* 28.

168. Joint Tenants, &c. may severally claim Abatements.—Coparceners, joint tenants, or tenants in common of the profits of any property whatever, and any joint tenants or tenants of lands or tenements in partnership, being in the actual and joint occupation thereof in partnership, and entitled to the profits thereof in shares, and personally labouring therein, or managing the same, and any partners carrying on trade or exercising any profession together and entitled to the profits thereof in shares, and personally acting therein, may severally claim such exemption according to their respective shares and interests in the manner before directed; and such claims, being duly proved to the satisfaction of the commissioners to whom the same are made, may be proceeded upon as in the case of several interests: Provided always, that the profits so arising shall not in any case be charged separately to the duty in respect of the occupation of lands, where lands shall be let or underlet without relinquishing the possession by the lessor, or where the lessee or tenant shall not be exclusively in the possession and occupation of the lands so let.

169. Claim to be made where the Claimant resides, or in the case of Offices, Pensions, and Stipends, before the Commissioners of the Department—Persons out of Great Britain may claim by Affidavit.—Provided always, that every such claim for exemption shall be made to the commissioners of the district where the claimant shall reside, whether such claimant shall be personally charged in such district or not, except where the whole income of the claimant shall arise from an office or employment of profit the duties whereon are cognizable before the commissioners of a department of office, or from a pension or stipend, in all which cases the claim may be made to and allowed by the commissioners of such department wherein the said duties are cognizable under the regulations of this Act; and if such claimant shall be out of Great Britain, an affidavit, stating the several matters required by this Act, taken before any person having authority to administer an oath in the place where such claimant shall reside in any matter relating to any part of the public revenue of Great Britain, may be received by the respective commissioners for executing this Act in relation to the assessment on which such claim shall be founded.

170. Claims may be made by Agents or Trustees on account of others.—Any such claim for exemption may be made by any guardian, trustee, attorney, agent, or factor on account of others in any case where satisfactory proof shall be made that the party claiming such exemption is unable to attend in person, or such claim may be made by the several persons acting in any of the characters herein-before described, in such manner as they may act for others, for the purpose of being assessed on their account in the first instance, as herein-before directed.

171. Commissioners to grant relief from Double Assessments.—Whenever any person shall have been assessed to any of the duties granted by this Act, whether charged on him on his own account, or in any of the characters herein-before described on the behalf of any other person, and shall, by any error or mistake be again assessed for the same cause, and on the same account, and for the same year, it shall be lawful for him to apply to the commissioners for general purposes acting for the division or place for which he shall have been so assessed by error or mistake as aforesaid, for the purpose of being relieved from such double assessment; and the said commissioners on due proof thereof to their satisfaction, shall cause such assessment, or such part thereof as shall be a double charge as aforesaid, to be vacated, and which proof may be either by a certificate of the assessment made on the party, under the hands of the commissioners by whom he shall have been rightly assessed according to the directions of this Act for the matter or cause in question, certifying that such matter or cause is included in an assessment made by them on the same party, on the same account, and for the same year, or by other lawful evidence given of those facts on the oath of any credible witness; and whenever it shall be proved to the satisfaction of the commissioners of stamps and taxes that any such double assessment as aforesaid hath been made, and hath not been vacated, and that payment hath been made of both assessments, it shall be lawful for the said commissioners of stamps and taxes to order and direct the receiver general of stamps and taxes, or any officer for receipt, to repay to the party the sum so erroneously and doubly assessed upon him, and paid as aforesaid.

172. Commissioners to issue Duplicates of Assessments to Collectors, with Warrants to collect the same.—The respective commissioners executing this Act in relation to any of the duties hereby granted shall, within one calendar month after the first day of hearing appeals, all appeals then made being first determined, issue out and deliver to the respective collectors duplicates of the assessments of the aforesaid duties charged at the respective rates mentioned in the respective schedules of this Act, together with their warrants, as directed by the said several Acts relating to the duties of assessed taxes, for the speedy and effectual levying and collecting of the said duties assessed under this Act, as the same shall become payable, . . . distinguishing the amount charged under each of the said schedules: Provided always, that all such duties as shall be assessed or charged under any of the provisions of this Act, if not paid levied, or collected according to the directions herein mentioned, shall be recoverable as a debt to the Queen's Majesty, with full costs of suit and all charges and expences attending the same; and when so recovered, the said duties shall be paid to the proper officer for receipt, in aid of the parish or place answerable for the same.

S. 172 *in part rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*).

173. Parents and Guardians liable for Infants, and Executors for persons dying.—Where any person chargeable with the duties hereby made payable as aforesaid shall be under the age of twenty-one years, or where any person so chargeable shall die, in every such case the parents, guardians, or tutors of such infant, upon default of payment by him, and the executors and administrators of the person so dying, shall be and are hereby made liable to and charged with the payments which the said infant ought to have made, or the person so dying was chargeable with; and if such parents, guardians, or tutors, or such executors or administrators, shall neglect or refuse to pay as aforesaid, it shall be lawful to proceed against them in like manner as against any other person making default of payment of the said duties; and all parents, guardians, or tutors making payment as aforesaid shall be allowed every sum paid for such infants in their accounts, and all executors and administrators shall be allowed to deduct all such payments out of the assets of the person so dying.

174. Parish to be answerable for the Duties in England—Arrears to be re-assessed.—In England the parish or place in which any assessment shall have been made of the duties granted by this Act under any of the schedules marked respectively (A.), (B.), or (D.), shall be answerable for the amount of the duties which shall have been so charged in such parish or place, and for the said duties being duly demanded of the respective persons charged therewith, according to the regulations contained in the said Acts relating to the duties of assessed taxes, by the collector appointed for such parish or place, and also for such collector duly paying the sums by him received to the proper officer for receipt of the said duties, according to such regulations; and any of the arrears of the said duties by this Act granted, caused by or arising from any neglect, default, or failure of any collector, for which any parish or place shall be answerable as aforesaid, shall be assessed within or upon such parish or place as soon after such default shall be discovered as conveniently can be done, and shall be charged on the amount of the assessment which shall be made for the same duties in the year commencing from the fifth day of April preceding the time of making such re-assessment, by duly apportioning the amount of such arrear amongst the several persons assessed in that year in the assessment of the same duties on which such arrear shall have accrued, according to the amount of each person's assessment therein, as nearly as the case will admit, and by the like rules, methods, and directions, by which the original assessment was made, to be raised and levied in such manner as any assessment may be by virtue of this Act raised and levied under the regulations of the said Acts respectively.

[*S.* **175** *rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*).]

176. Assessments to be in force for one year.—Every assessment to be made under this Act within the year appointed for making the same shall be deemed to be for the current year, and shall be in force for such year; and every assessment made after the expiration of any year in which the same ought to have been made shall be deemed to be made for the whole of the year current when the assessment ought to have been made; and such year shall commence for every assessment during the continuance of this Act from the fifth day of April in such year: . . . . . .

S. 176 *in part rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*).

177. IF PERSONS COME TO RESIDE IN ANY PARISH IN WHICH THEY HAVE NOT BEEN BEFORE CHARGED, THE ASSESSOR SHALL GIVE THEM NOTICE TO DECLARE WHERE THEY WERE CHARGED, &C. OR TO DELIVER A STATEMENT, FOR THE PURPOSE OF BEING ASSESSED, &C.—ARREARS IN CERTAIN CASES TO BE LEVIED BY DISTRESS IN THE DISTRICT WHERE THE PARTY RESIDES; AND IF NOT SO LEVIED, TO BE RECOVERED AS A DEBT TO HER MAJESTY.—If any person shall come into any parish or place wherein such person shall not have been before charged to the said duties contained in any of the said schedules for the same year, the assessor or collector, or any inspector or surveyor, shall give or leave notice in writing to or for such person to make out and deliver, within fourteen days next ensuing the day of giving such notice, a declaration in writing, signed by him with his own proper name, which shall specify the name of the parish or place and county wherein such person shall have been assessed as aforesaid for such year, and also to produce the certificate of such assessment, or in default thereof to deliver a statement for the purpose of being assessed in such parish or place; and if any such person as aforesaid shall neglect or refuse to make out and sign and deliver such declaration or statement as aforesaid, within the time before mentioned, or shall make any false or untrue return therein in any particular thereof, he shall forfeit a sum not exceeding twenty pounds; and when in any case it shall not appear in the assessment of any parish or place for that year that any person residing or being therein shall have been assessed to the said duties, in the same parish or place, then and in such case it shall be lawful for the respective commissioners acting for the said district and they are hereby required to proceed in manner before directed to assess such person to the said several duties, in like manner in every respect as if such person had been resident in such parish or place at the time of the publication of notices as directed by this Act, unless such person shall prove to their satisfaction, that he hath been duly charged in some other parish or place, or hath paid or satisfied the duties so charged; and if any person, before or after notice given to return a statement as aforesaid, shall remove out of such parish or place without returning such statement, or before an assessment shall be made on him, with intent to evade an assessment, or if any person being assessed to the said duties shall remove out of the parish or place where he shall have been assessed to the said duties without first paying or discharging all the said duties charged upon him which shall then be due and payable, or without leaving in such parish or place sufficient goods and chattels whereon the said duties in arrear may be raised and levied, and the same shall remain in arrear and unpaid for the space of twenty days after the time appointed by this Act for payment thereof, every such person shall forfeit (over and above the said duties so left unpaid as aforesaid) the sum of twenty pounds; and in every such case, and also in every case where any person shall reside in any other parish or place than that in which the assessment or charge shall be made on him in pursuance of this Act, and the same shall be in arrear and unsatisfied in the whole or in part, it shall be lawful for the commissioners of the district in which such assessment or charge shall have been made to certify to the commissioners of the district within which such person shall reside the amount of the assessment or charge made upon such person and remaining in arrear and unpaid as aforesaid, and such last-mentioned commissioners shall thereupon cause the whole of the duty so remaining in arrear and unpaid as aforesaid to be raised and levied, by and under their warrant, together with the costs and charges attending the same; provided that if no such certificate and warrant as aforesaid shall be made and issued, or the whole of such arrear of duty and costs and charges as aforesaid shall not be levied or collected in manner aforesaid, the same shall be recoverable as a debt to her Majesty, together with full costs of suit and all charges and expenses attending the same.

178. PENALTY ON PERSONS FRAUDULENTLY CHANGING THEIR RESIDENCE, OR CONVERTING PROPERTY, OR DELIVERING FALSE STATEMENTS, OR GUILTY OF OTHER FRAUD.—If any person who ought to be charged as directed by this Act shall, by fraudulently changing or having changed his place of residence, or by fraudulently converting or having converted his property, or any part thereof, or by fraudulently releasing, assigning, or conveying, or having fraudulently released, assigned, or conveyed, the same or any part thereof, or by making and delivering any such statement or schedule as aforesaid which shall be false or fraudulent, or, having any property chargeable as aforesaid, shall fraudulently convert or shall have fraudulently converted the same or any part thereof, by altering or having altered any security with relation to such property, or by

fraudulently rendering or having rendered the same or any part thereof temporarily unproductive, in order that such person may not be charged for the same or any part thereof, or by any falsehood, wilful neglect, fraud, covin, art, or contrivance whatsoever, used or practised, shall not be charged and assessed according to the true intent and meaning of this Act, every such person shall, on proof thereof before the said respective commissioners for general purposes acting for the district wherein such person shall be chargeable, be charged and assessed treble the amount of the charge which ought to have been made on such person, if no such charge shall have been made; and if any such charge shall have been made which shall be less than the charge which ought to have been made on such person then such person shall be assessed and charged, over and above such former charge, treble the amount of the difference between the sum with which such person shall have been charged and the sum with which he ought to have been charged, to be added to such assessment, and applied as in other cases as aforesaid.

179. Receipts and other Documents exempted from Stamp Duty.—No receipt, certificate of payment, . . . affidavit, appraisement, or valuation, made or given in pursuance and for the purposes of this Act, shall be liable to any stamp duty.

S. 179 *in part rep.* 37 & 38 *Vict. c.* 96 (*S.L.R.*).

180. Persons giving false Evidence, or swearing falsely, liable to the Penalties of Perjury—Indictments may be tried in the County where Affidavit, &c. was exhibited.—If any person, upon any examination on oath or affirmation, or in any affidavit, deposition, or affirmation authorized by this Act, shall wilfully and corruptly give false evidence, or shall wilfully and corruptly swear or affirm any matter or thing which shall be false or untrue, every such person so offending, and being thereof duly convicted, shall be subject and liable to such pains and penalties as by the laws in force persons convicted of wilful and corrupt perjury are subject and liable to; and any indictment or information for perjury committed in any such affidavit, deposition, or affirmation as aforesaid, whether the same shall be taken or made within Great Britain or without, shall and may be laid, tried, and determined in the county where such affidavit, deposition, or affirmation shall be exhibited to the commissioners in pursuance of this Act.

181. Punishment of persons guilty of forging or altering Certificates or Receipts given under this Act.—If any person shall forge, counterfeit, or alter, or cause or procure to be forged, counterfeited, or altered, or knowingly or wilfully act or assist in forging, counterfeiting, or altering, any certificate of the commissioners of stamps and taxes, or of any other commissioners acting in the execution of this Act, or any certificate or receipt which the cashier of the Bank of England, or the receiver general of stamps and taxes, or any officer for receipt, is by this Act authorized to give on the receipt of any money payable under this Act, or shall utter any such forged, counterfeited, or altered certificate or receipt as aforesaid, with intent to defraud her Majesty, or any body politic or corporate, or any person whomsoever, every person so offending, and being thereof lawfully convicted, shall be adjudged guilty of felony, and shall be transported for a term not exceeding fourteen years.

182. Evidence to be received in Court of persons being Commissioners or Officers.—If upon the trial of any indictment, information, suit, or prosecution whatsoever, or in any proceeding relative thereto under and by virtue of this Act or the said Acts herein-before recited or referred to, or for anything done in pursuance of this Act, or for any offence committed against this Act, or in any matter arising out of this Act, or on occasion thereof, any question shall arise whether any person be or have been or was a commissioner or officer of or for the said duties hereby granted, or commissioned or appointed to act as such, then and in every such case proof may be made and admitted that such person was reputed to be or had acted as such commissioner or officer, or acted under such commission or appointment, at the time respectively when the act, matter, or thing in controversy upon such trial or other proceeding shall happen to have been done or committed, or omitted to have been done or performed, without producing or proving the particular commission, appointment, nomination, or other authority whereby such commissioner or officer was constituted and appointed; and in every such case such proof shall be deemed and taken, by all judges, justices, or commis-

sioners before whom such trial or proceeding shall be had, to be good and legal evidence, unless by other evidence the contrary shall be made to appear; any law or usage to the contrary thereof notwithstanding.

183. Allowance to Assessors, Collectors, Clerks, and other persons.—The several assessors and collectors shall have threepence in the pound for what money of the several duties by this Act granted the several collectors shall pay to the proper officer for receipt, to be divided in each separate collection between the said assessors and collectors in equal proportion; [*provision for payment to clerk of commissioners rep.* 37 & 38 *Vict. c.* 96 (*S.L.R.*)] and no person shall, under any pretence whatever, be entitled to any part of the reward hereby given to such clerk, except the assistant (if any) to such clerk, whose compensation shall be apportioned and settled by the respective commissioners; nor shall such clerk, under any pretence whatever, demand, take, or receive any fee, gratuity, or perquisite, for any matter or thing to be done by him by virtue and under the authority of this Act, from any person other than the proper officer for receipt, in manner aforesaid: Provided always, that no such compensation shall be made to any assessor or collector, in respect of any sum detained or stopped under the authority of this Act, or paid into the Bank of England, or in respect of any sums paid by the respective parties into the said Bank, nor to any receiver, nor to any of the persons or corporations intrusted with the payment of annuities, dividends, and shares paid out of any public revenue of Great Britain, or elsewhere, as aforesaid, other than such sum as shall be directed to be paid to such collectors, receivers, corporations, or persons aforesaid by the warrant of the Treasury, for their pains and care in executing this Act: . . . . . .

S. 183 *in part rep.* 37 & 38 *Vict. c.* 96 (*S.L.R.*).

184. Nonpayment of Duties not to disqualify from voting at Elections of Members of Parliament.—Provided always, that no neglect or omission to pay, within any limited period, the duties assessed under the authority of this Act in respect of any house or other building, shall prevent any person from being admitted or retained on the register or list of persons entitled to vote in the election of a member or members to serve in Parliament for any city or borough, or from voting at any such election.

185. Recovery of Penalties and Duties.—All pecuniary penalties imposed by this Act shall and may be sued for, recovered, and applied in such manner and form as is directed in regard to the pecuniary penalties imposed by the said Acts respectively passed in the forty-third year of the reign of King George the Third relating to the duties of assessed taxes, the regulations whereof are hereby made applicable to the duties granted and the penalties imposed by this Act; and in any action, suit, or proceeding, by or on the behalf of her Majesty, for the recovery of any such duties or penalties respectively granted or imposed by this Act, such duties and penalties respectively shall be recoverable with full costs of suit and all charges and expenses attending the same: Provided always that wherever by this Act any increased rate of duty is imposed as a penalty, or as part of or in addition to any penalty, every such penalty and all such increased rate of duty may be added to the assessment, and be collected and levied in like manner as any duties included in such assessment may be collected and levied.

186. Treasury to settle Allowances for Commissioners, Surveyors, and other Officers, and to discharge Incidental Expenses.—[*Provision requiring duties to be paid into the Bank of England, and transferred to the Exchequer, rep.* 37 & 38 *Vict. c.* 96 (*S.L.R.*)]: Provided always, that . . . it shall be lawful for the Treasury to settle and appoint such salaries and allowances for the service, pains, and labour of the commissioners for special purposes, inspectors, surveyors, and other officers to be employed in the execution of this Act, and otherwise in relation thereto, and also to discharge such incident charges and expenses attending the execution of this Act, as the Treasury shall think fit and reasonable in that behalf.

S. 186 *in part rep.* 37 & 38 *Vict. c.* 96 (*S.L.R.*).

187. No person to be exempt by Letters Patent.—No letters patent granted by her Majesty, or any of her royal progenitors, or to be granted by her Majesty, to any person, city, borough, or town corporate within this realm, of any manner of liberties, privileges, or exemptions from subsidies, tolls, taxes, assessments, or aids, nor any statute

granting any salary, annuity, or pension to any person free of any taxes, deductions, or assessments, shall be construed or taken to exempt any person, city, borough, or town corporate, or any of the inhabitants of the same, from the burden and charges of any of the duties granted by this Act; and all non obstantes in such statutes or letters patent made or to be made in bar of this Act are hereby declared to be void and of none effect; any such statutes, letters patent, grants, or charters, or any clause of non obstante, or other matter or thing therein contained, or any law or statute, to the contrary notwithstanding.

188. Provisions applied to any particular Schedule shall extend to any other Schedule.—Every provision in this Act contained, and applied to the duties in any particular schedule, which shall also be applicable to the duties in any other schedule, and not repugnant to the provisions for charging, ascertaining, or levying the duties in such other schedule, shall, in charging, ascertaining, and levying the same, be applied as fully and effectually as if the application thereof had been so expressly and particularly directed; anything herein contained to the contrary notwithstanding.

189. Schedule (F.) to be deemed part of this Act.—The schedule herein-after mentioned, marked (F.), shall be deemed a part of this Act, as if the same had been inserted under a special enactment; provided that the several oaths therein mentioned shall be deemed and understood and taken to refer only to the duties contained in schedule (D.) as aforesaid.

Schedule (F.)

Form of an Oath or Affirmation to be taken by the Commissioners for the Purposes of this Act, and by additional Commissioners, and Commissioners for Special Purposes, acting in the Execution thereof, in respect of the duties contained in Schedule (D.)

'I A.B. do swear [or affirm, as the case may be], that I will truly, faithfully, impar-
'tially, and honestly, according to the best of my skill and knowledge, execute the
'powers and authorities vested in me by an Act passed in the year
'of the reign of Queen Victoria, intituled [here set forth the title of this Act], and
'that I will exercise the powers intrusted to me by the said Act in such manner only
'as shall appear to be necessary for the due execution of the same; and that I will
'judge and determine upon all matters and things which shall be brought before me
'under the said Act without favour, affection, or malice; and that I will not disclose
'any particular contained in any schedule or statement delivered with respect to any
'duties charged under the provisions and regulations relating to schedule (D.) of the
'said Act, or any evidence or answer given by any person who shall be examined, or
'shall make affidavit, deposition, or affirmation respecting the same, in pursuance of
'the said Act, excepting in such cases and to such persons only who shall be sworn to
'the due execution of this Act, and where it shall be necessary to disclose the same
'for the purposes of the said Act, or to the commissioners of stamps and taxes, or in
'order to or in the course of a prosecution for perjury committed in such examination,
'affidavit, deposition, or affirmation. So help me GOD.'

Form of Oath or Affirmation to be taken by Inspectors and Surveyors as aforesaid.

'I A.B. do swear [or affirm], that in the execution of an Act passed in the
'year of the reign of Queen Victoria, intituled [here set forth the title of this Act], I
'will examine and revise all statements, schedules, and declarations delivered within
'my district, and in objecting to the same I will act according to the best of my
'information and knowledge; and that I will conduct myself without favour, affection,
'or malice, and that I will exercise the powers intrusted to me by the said Act in such
'manner only as shall appear to me to be necessary for the due execution of the same,
'or as I shall be directed by the commissioners of stamps and taxes, or any two or
'more of them; and that I will not disclose any particular contained in any statement
'or schedule, with respect to any duties charged under the provisions and regulations
'relating to schedule (D.) of the said Act, or any evidence or answer given by any
'person who shall be examined, or shall make affidavit, deposition, or affirmation

'respecting the same, in pursuance of the said Act, except in such cases and to such 'persons only who shall be sworn to the due execution of the said Act, and where it 'shall be necessary to disclose the same for the purposes of the said Act, or to the com- 'missioners of stamps and taxes or in order to or in the course of a prosecution for 'perjury committed in such examination, affidavit, deposition, or affirmation.

'So help me GOD.'

FORM of Oath or Affirmation to be taken by Assessors as aforesaid.

'I A.B. do swear [or affirm], that in the execution of an Act passed in the 'year of the reign of Queen Victoria, intituled an Act [here set forth the title of 'this Act], I will in all respects act diligently and honestly, and without favour or 'affection, to the best of my knowledge and belief, and that I will not disclose any 'particular contained in any statement or schedule delivered to me in the execution of 'the said Act, with respect to any duties charged under the provisions and regulations 'relating to schedule (D.) of the said Act, except in such cases and to such persons only 'who shall be sworn to the due execution of the said Act, and where it shall be neces- 'sary to disclose the same for the purposes of the said Act, or in order to or in the 'course of a prosecution for perjury committed in any matter relating to such statement 'or schedule. So help me GOD.'

FORM of Oath or Affirmation to be taken by the Collectors and Officers for Receipt.

'I A.B. do swear [or affirm], that in the execution of an Act passed in the 'year of the reign of Queen Victoria, entitled an Act [here set forth the title of this 'Act], I will not disclose any assessment or the amount of any sum paid or to be paid 'by any individual under the said Act, or the books of assessment which shall be 'delivered to me in the execution of the said Act, with respect to any duties charged 'under the provisions and regulations relating to schedule (D.) of the said Act, except 'in such cases and to such persons only who shall be sworn to the due execution of 'the said Act, and where it shall be necessary to disclose the same for the purposes of 'the said Act, or to the commissioners of stamps and taxes, or in order to or in the 'course of a prosecution for perjury committed in relation to the said duties.

'So help me GOD.'

FORM of Oath or Affirmation to be taken by a Clerk or Clerk's Assistant to the Commissioners aforesaid.

'I A.B. do swear [or affirm], that I will diligently and faithfully execute the office 'of a clerk [or assistant clerk, as the case may be], according to an Act passed in the 'year of the reign of Queen Victoria, intituled "An Act" [here set 'forth the title of this Act], to the best of my knowledge and judgment; and that I 'will not disclose any particular contained in any statement, declaration, or schedule, 'with respect to the duties charged under the provisions and regulations relating to 'schedule (D.) of the said Act, or any evidence or answer given by any person who 'shall be examined or shall make affidavit, deposition, or affirmation respecting the same, 'except in such cases and to such persons only who shall be sworn to the due execution 'of the said Act, and where I shall be directed so to do by the regulations of the said 'Act, or any two or more of the commissioners under whom I act, or of the com- 'missioners of stamps and taxes, or in order to and in the course of a prosecution for 'perjury committed on such examination, affidavit, deposition, or affirmation.

'So help me GOD.'

190. SCHEDULE (G.), AND THE RULES THEREIN, TO BE OBSERVED IN EXECUTING THE ACT.—The schedule marked (G.), with the rules and directions therein contained, shall, in making returns of the amount of annual value or profits on which any duty is chargeable under this Act, so far as the same are respectively applicable to the case of each person, corporation, company, or society described or mentioned in this Act, on behalf of themselves, and also of others for whom they act in any of the characters described in this Act, or herein-after mentioned, be observed by each such person, corporation, company, or society, or by his or their agents or officers, in the cases where such agents or officers are authorized to make such returns.

SCHEDULE (G.)

I.—By every occupier of lands, tenements, hereditaments, or heritages throughout Great Britain, to be charged under schedules (A.) and (B.), or either of them.

A statement of the rent and annual value, or the annual value, as the case shall require, of all lands, tenements, and hereditaments, or heritages, occupied in every parish or place, distinguishing the proportions in each parish or place, and estimating separately such as are occupied as owner or tenant, and also such as are held under different landlords, and also such as are chargeable by the rent or annual value, or on the amount of profits; and also estimating separately the rent or annual value chargeable in respect of the property, and the amount chargeable in respect of the occupation, distinguishing the same as follows; (videlicet,)

Lands and tenements occupied as owner:
Lands and tenements let at rackrent within seven years:
Lands and tenements let at rackrent before the period of seven years with the rent and annual value thereof estimated separately:
Lands and tenements let, but not at rackrent, with the rent and annual value thereof estimated separately:
The amount at which such lands and tenements are rated to the poor:
The amount of the composition, rent, rentcharge, or annual payment paid in the preceding year to the rector or vicar or other person, for tithes of the above lands and tenements:
The amount of each deduction claimed in respect thereof, and stating if tithe-free in part or in the whole, and the amount of any modus for tithes or real composition.

II.—By every lay impropriator, and by every ecclesiastical rector, vicar, or other person (describing himself) receiving any tithes, in kind, or any payments in right of the church, or by endowment, or in lieu of any tithes, and on all teinds in Scotland to be charged under schedule (A.), distinguishing the same as follows:

The amount of the profits from tithes taken in kind for one year, on an average of three years:
The amount of dues and money payable in right of the church or by endowment, or in lieu of tithes not arising from lands, on the above average:
The amount of compositions, rents, and payments in lieu of tithes arising from lands for the preceding year.

III.—By every person, corporation, or company carrying on any concern hereinafter mentioned, or their agents or officers, in the cases authorized to be charged under schedule (A.)

The amount of profits from quarries of stone, slate, limestone or chalk, in the preceding year:
Of iron works, salt springs or works, alum mines or works, waterworks, streams of water, canals, inland navigations, docks, drains, levels, fishings, rights of markets and fairs, tolls, railways and other ways, bridges and ferries, in the preceding year:
Of mines of coal, tin, lead, copper, mundic, iron, and other mines on an average of five years.

IV.—By every lord or lady of a manor or other royalty, or tenant of the same.

The amount of all dues and other services or other casual profits (except rents and annual payments) of such manors or royalties on an average of seven years.

V.—By the receiver of any fine paid in consideration of a demise of lands or tenements (except customary) to be charged under schedule (A.)

The amount of such fines in the preceding year, or for such lesser period since the interest thereon commenced, and an estimate of the average value for one year.

VI.—By every person entitled to profits arising from lands, tenements, hereditaments, or heritages, not before stated, to be charged under schedule (A.)

The amount, on a fair average, to be allowed by the respective commissioners.

VII.—By or for every person carrying on any trade, manufacture, adventure, or concern, in the nature of trade to be charged under schedule (D.)

The amount of the balance of the profits thereof, upon a fair and just average of three years, or for such shorter period as the concern has been carried on.

VIII.—By every person exercising any profession, employment, or vocation, to be charged under schedule (D.)

The amount of the balance of the profits, gains, and emoluments thereof within the preceding year.

IX.—By every person entitled to profits of an uncertain value, not before stated, to be charged under schedule (D.)

The full amount of the profits or gains arising therefrom within the preceding year.

X.—By every person receiving in Great Britain interest from securities out of Great Britain, to be charged under schedule (D.)

The full amount that has been received, or will be received, as far as the same can be computed in the current year.

XI.—By every person receiving in Great Britain profits from possessions out of Great Britain, to be charged under schedule (D.)

The full net amount annually received therefrom, either by remittances, or importation of property, or money or value from property not imported, or on credit, or on account in respect of remittances, property, or value, on an average of the three preceding years.

XII.—By every person entitled to any annual profits not falling under any of the foregoing rules, and not charged by any of the other schedules, to be charged under schedule (D.)

The full amount thereof received annually, or according to the average directed to be taken by the commissioners on a statement of the nature of such profits, and the grounds on which the amount has been computed, and the average taken to the best of the party's knowledge and belief.

XIII.—Declarations to be delivered in respect of the duty to be charged under schedule (D.)

First.—Declaration by the precedent acting partner, or by the agent, if none of the partners are resident in Great Britain, of the names of the several partners, their respective residences, and the place of carrying on the trade or concern, or exercising the profession, and the style or description of the firm:

Second.—Declaration by any partner, not being the precedent acting partner, of his being assessed with the firm, describing the same, and the place where the return of the precedent partner was made:

Third.—Declaration which may be made by each partner desirous of being and entitled to be separately assessed, describing the firm, and his proportion of the profits.

XIV.—Statement of profits of any office not chargeable by commissioners specially appointed in the department where the office is held.

The amount of the salary, fees, wages, perquisites, and profits of office in the preceding year, or on an average of three years, as the case shall require.

The like statement to be delivered to the commissioners appointed in the department, if required.

XV.—General declaration by each person returning a statement of profits under schedules (A.) (B.) (D.) or (E.)

Declaring the truth thereof, and that the same is fully stated on every description of property or profits included in the Act relating to the said duties, and appertaining to

the party estimated to the best of his judgment and belief, according to the directions and rules of this Act.

XVI.—List and declaration for facilitating the execution of the Act in relation to the duties chargeable on others.

First.—List containing the name of every lodger or inmate in any dwelling house with the ordinary place of residence of such lodger or inmate, if he shall have any ordinary place of residence elsewhere, at which he is desirous of being assessed:

Second.—List of every person in the service or employ of any master or mistress, whether resident in his or her dwelling house or not, and the place of residence of those not residing with the master or mistress:

Third.—List to be delivered by every trustee, factor, agent, receiver, guardian, tutor, curator, or committee, of the name and place of residence of the person for whom they act in such character, describing him, and the names of them who are joined in trust:

Fourth.—Declaration on whom the duty is chargeable in respect of such trust:

Fifth.—List containing the proper description of every corporation, company, fraternity, fellowship, society, or trust, for which any person is answerable as treasurer, auditor, or receiver: and where any person before described is answerable for the duty to be charged in respect of the property or profits of others, such lists as aforesaid shall be delivered, together with required statements of such profits.

XVII.—Lists, declarations, and statements of discharge, or in order to obtain exemptions.

First.—Declaration of the amount of value or property or profits returned, or for which the claimant hath been or is liable to be assessed.

Second.—Declaration of the amount of rents, interests, annuities, or other annual payments, for which the party is liable to allow and deduct the duty, with the names of the respective persons by whom such payments are to be made, distinguishing the amount of each payment:

Third.—Declaration of the amount of interests, annuities, or other annual payments, to be made out of the property or profits assessed on the claimant, distinguishing each source:

Fourth.—Statement of the amount of income derived according to the three preceding declarations:

Fifth.—Statement of any payment which the claimant may be liable to make, and out of which he may be entitled to deduct or retain any portion of the duty charged upon him, and of any charge which he may be entitled to make against any other person for any portion of such duty.

191. Exercise of Powers by Treasury and Commissioners.— . . . Wherever any order, consent, authority, or direction of the Treasury is prescribed or required by this Act, every such order, consent, authority, and direction may be signified under the hand of one of their secretaries or assistant secretaries; and wherever any of the powers and authorities given by this Act are required or directed to be put in execution, or any assessment, warrant, order, precept, notice, certificate, contract of composition, or other document is by this Act or any Act herein recited or referred to is required or directed to be made, signed, or issued by the commissioners for general purposes, or the additional commissioners, or the commissioners for special purposes, or the commissioners for stamps and taxes, or any other commissioners acting in the execution of this Act, every such power and authority shall and may lawfully be put in execution, and every such assessment, warrant, order, precept, notice, certificate, contract, or other document shall and may lawfully be made, signed, and issued respectively by any two or more of the said respective commissioners; provided that where any act, matter, or thing is directed or authorised to be done or performed by or before one of such respective commissioners, such act, matter, or thing may lawfully be done or performed by or before such one commissioner, anything herein contained notwithstanding.

S. 191 *in part rep.* 53 & 54 *Vict. c.* 51 (*S.L.R.*).

192. Construction of the Terms used in this Act.—Wherever in this Act, with reference to any person, matter, or thing, any word or words is or are used importing the singular number or the masculine gender only, yet such word or words shall be

understood to include several persons as well as one person, females as well as males, bodies politic or corporate as well as individuals, and several matters or things as well as one matter or thing, unless it be otherwise specially provided, or there be something in the subject or context repugnant to such construction; and wherever the terms and expressions following occur in this Act they shall be construed respectively in the manner herein-after directed; (that is to say,) the term "affidavit" and the term "oath" shall respectively mean and include an affirmation in the case of Quakers or other persons entitled by law to make an affirmation in lieu of an affidavit or oath; the term "England" shall mean and include England and Wales and Berwick-upon-Tweed.

[*Ss.* **193, 194** *rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*).]

CHAPTER XXXVII.

THE LAND TAX ACT, 1842 (*Short Titles Act*, 1896).

AN ACT . . . to amend the Laws relating to the Land and Assessed Taxes. [30th June 1842.]

Title in part rep. 51 *&* 52 *Vict. c.* 57 (*S.L.R.*).

[*Preamble rep.* 51 *&* 52 *Vict. c.* 57 (*S.L.R.*). *Ss.* **1, 2** *rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*).

3. DETACHED PARISHES AND PLACES DESCRIBED IN SCHEDULE (A.) TRANSFERRED TO THE JURISDICTION OF COMMISSIONERS OF LAND AND ASSESSED TAXES FOR THE COUNTIES IN OR NEAR TO WHICH THEY ARE LOCALLY SITUATE—COMMISSIONERS OF STAMPS AND TAXES MAY TRANSFER THE JURISDICTION OVER SIMILAR DETACHED PARISHES AND PLACES IN CASES NOT SPECIALLY PROVIDED FOR.—[*Recital that divers parishes and places in Great Britain are detached from the main body of the counties to which they belong, and that it is expedient that the Acts relating to land tax, &c. should in such parishes and places be executed by the commissioners for the adjoining counties.*] The several parishes and places and parts of parishes and places described in the schedule marked (A.) to this Act annexed shall in all matters and things relating to the assessing, charging, raising, and levying of the land tax, and the duties of assessed taxes, and also the duties on profits arising from property, professions, trades, and offices, be under and subject to the jurisdiction and authority of the commissioners appointed or to be appointed for putting in execution the Acts relating to the said land tax and to the said duties respectively in and for the several counties, ridings, or shires, which are respectively mentioned in the fourth column of the said schedule in conjunction with the names or descriptions of such detached parishes or places or parts thereof respectively; and in all other similar cases for which no special provision is hereby made it shall be lawful for the commissioners of stamps and taxes to order and direct that in all such matters and things as aforesaid any such detached parish or place or part of a parish or place as aforesaid shall be under and subject to the jurisdiction and authority of the commissioners appointed or to be appointed for putting in execution the said Acts in and for such county, riding or shire adjoining or near to such detached parish or place or part thereof, as the said commissioners of stamps and taxes shall name in that behalf.

4. COMMISSIONERS TO WHOSE JURISDICTION SUCH PARISHES ARE TRANSFERRED TO HAVE FULL POWER TO EXECUTE THEREIN THE ACTS RELATING TO THE LAND TAX, ASSESSED TAXES, AND PROPERTY TAX.—The commissioners, under whose jurisdiction or authority any such detached parish or place or part thereof as aforesaid is or may be placed by or in pursuance of this Act, shall have full power and they are hereby authorized to execute and put in force the several Acts aforesaid, and the several powers and provisions thereof, for the assessing, charging, levying, and enforcing payment of the land tax and the several duties aforesaid, and otherwise relating thereto, in and throughout any such parish or place or part of a parish or place as aforesaid, in as full and ample a manner as the said commissioners are or may be authorized to execute the said Acts or any of them within the county, riding, or shire for which they have been or may be appointed, anything in any former Act contained, or any usage or practice, to the contrary notwithstanding.

5. Detached Parishes, &c. may be added to adjoining or formed into new Divisions.—Provided always, that it shall be lawful for the commissioners of stamps and taxes to order and direct that any such detached parish or place or part of a parish or place as aforesaid shall be added to any adjoining or other division or divisions, or be formed into one or more new division or divisions as the said last-mentioned commissioners shall think fit.

6. Commissioners of Land Tax to certify the amount of Land Tax assessed on such Parishes and the same amount to be continued to be assessed thereon.—Where the land tax chargeable upon any such parish or place or part of a parish or place as aforesaid hath been or shall have been charged and assessed by other commissioners than those under whose jurisdiction such parish or place or part thereof is or may be placed by or in pursuance of the authority contained in this Act, then and in such case the commissioners acting in execution of the Acts relating to the land tax for the county, riding, or shire in which any such parish or place or part thereof hath been or shall have been charged and assessed to the said land tax, shall certify in duplicate under their hands and seals, to the commissioners of stamps and taxes, the amount of the land tax which hath been or shall have been charged and assessed on such parish or place or part of a parish or place as aforesaid in the assessment made for the year ending on the twenty-fifth day of March preceding the transfer of such parish or place or part thereof to the jurisdiction of other commissioners by or in pursuance of the authority contained in this Act; and the said commissioners of stamps and taxes shall transmit one of such duplicate certificates to the commissioners under whose jurisdiction such parish or place or part thereof is or may be transferred as aforesaid, who shall cause the same amount of land tax so certified as aforesaid to be yearly charged, assessed, raised, and levied upon such parish or place or part thereof as aforesaid, subject to redemption under the provisions of the Acts passed in that behalf.

[*S.* **7** *rep.* 43 *&* 44 *Vict. c.* 19, *s.* 4.]

SCHEDULE (A.) to which this Act refers.

1. Description of detached Parishes or Places or Parts of Parishes or Places.	2. Counties to which they belong.	3. Counties in which they are locally situate.	4. Counties the Commissioners for which are to have Jurisdiction over such detached Parishes, Places, or Parts.
Part of Shilton parish	Berkshire	Oxfordshire	Oxfordshire.
Eye, commonly called Sonning Eye, and Dunsden, hamlets in Sonning Parish.	Berkshire	Oxfordshire	Oxfordshire.
Caversfield parish	Buckinghamshire	Oxfordshire	Oxfordshire.
Part of Maker Parish, in the tything of Vaultersholme.	Devonshire	Cornwall	Devonshire.
Stockland parish	Dorsetshire	Devonshire	Devonshire.
Dallwood township	Dorsetshire	Devonshire	Devonshire.
The district of Norhamshire	Durham	Northumberland	Northumberland.
The district of Islandshire including the Farne Islands and Monkhouse.	Durham	Northumberland	Northumberland.
The parish of Bedlington or Bedlingtonshire.	Durham	Northumberland	Northumberland.
Minety parish	Gloucestershire	Wiltshire	Wiltshire.
Shennington parish	Gloucestershire	Oxfordshire	Oxfordshire.
Farloe chapelry	Herefordshire	Shropshire	Shropshire.
Rochford parish	Herefordshire	Worcestershire	Worcestershire.
Litton and Gascob township	Herefordshire	Radnorshire	Radnorshire.
Part of Coleshill hamlet	Herefordshire	Buckinghamshire	Buckinghamshire.
Part of Everton parish	Huntingdonshire	Between Bedfordshire and Cambridgeshire.	Bedfordshire

1. Description of detached Parishes or Places or Parts of Parishes or Places.	2. Counties to which they belong.	3. Counties in which they are locally situate.	4. Counties, the Commissioners for which are to have Jurisdiction over such detached Parishes, Places, or Parts.
Welsh Bicknor parish	Monmouthshire	Herefordshire	Herefordshire.
Boycot township	Oxfordshire	Buckinghamshire	Buckinghamshire.
Lillingston Lovell parish	Oxfordshire	Buckinghamshire	Buckinghamshire.
Part of Hales Owen parish	Shropshire	Bounded by Worcestershire and Staffordshire.	Worcestershire.
Holwell parish, including Buckshaw tything.	Somersetshire	Dorsetshire	Dorsetshire.
North Ambersham and South Ambersham tythings in the parish of Steep.	Hampshire	Sussex	Sussex.
Broom parish	Staffordshire	Worcestershire	Worcestershire.
Clent parish	Staffordshire	Worcestershire	Worcestershire.
Tutnal and Cobley Hamlet	Warwickshire	Worcestershire	Worcestershire.
Stretton-upon-Foss parish, Ilmington parish, Compton Scorpion hamlet, Whitchurch parish, Ditchford hamlet.	Warwickshire	Between parts of Worcestershire and Gloucestershire.	Worcestershire.
Part of Wokenham parish	Wiltshire	Berkshire	Berkshire.
Hinton tything in Hurst parish	Wiltshire	Berkshire	Berkshire.
Didnan tything in Shinfield parish	Wiltshire	Berkshire	Berkshire.
Swallowfield parish	Wiltshire	Berkshire	Berkshire.
Kingswood parish	Wiltshire	Gloucestershire	Gloucestershire.
Poulton parish	Wiltshire	Gloucestershire	Gloucestershire.
Iccomb parish	Worcestershire	Between Gloucestershire & Oxfordshire.	Gloucestershire.
Dailsford parish	Worcestershire	Oxfordshire	Gloucestershire.
Oldborough parish	Worcestershire	Warwickshire	Warwickshire.
Edvin Loach parish	Worcestershire	Herefordshire	Herefordshire.
WALES:			
Carregovah township	Denbighshire	Between Shropshire and Montgomeryshire.	Montgomeryshire.
Part of Glasbury parish	Brecknockshire	Brecknockshire or Radnorshire.	Brecknockshire.

CHAPTER XLV.

THE COPYRIGHT ACT, 1842 (*Short Titles Act*, 1896).

AN ACT to amend the Law of Copyright. [1st July 1842.]

[*Preamble.*]

[*S.* **1** *rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*).]

2. INTERPRETATION OF ACT — "BOOK" — "DRAMATIC PIECE" — "COPYRIGHT" — "PERSONAL REPRESENTATIVE" — "ASSIGNS" — "BRITISH DOMINIONS."—In the construction of this Act the word "book" shall be construed to mean and include every volume part or division of a volume, pamphlet, sheet of letter-press, sheet of music, map, chart, or plan separately published; the words "dramatic piece" shall be construed to mean and include every tragedy, comedy, play, opera, farce or other scenic, musical, or dramatic entertainment; the word "copyright" shall be construed to mean the sole and exclusive liberty of printing or otherwise multiplying copies of any subject to which the said word

is herein applied; the words "personal representative" shall be construed to mean and include every executor, administrator, and next of kin entitled to administration; the word "assigns" shall be construed to mean and include every person in whom the interest of an author in copyright shall be vested, whether derived from such author before or after the publication of any book, and whether acquired by sale, gift, bequest, or by operation of law, or otherwise; the words "British dominions" shall be construed to mean and include all parts of the United Kingdom of Great Britain and Ireland, the Islands of Jersey and Guernsey, all parts of the East and West Indies, and all the colonies, settlements, and possessions of the crown which now are or hereafter may be acquired; and whenever in this Act, in describing any person, matter, or thing, the word importing the singular number or the masculine gender only is used, the same shall be understood to include and to be applied to several persons as well as one person, and females as well as males, and several matters or things as well as one matter or thing, respectively, unless there shall be something in the subject or context repugnant to such construction.

3 ENDURANCE OF TERM OF COPYRIGHT AND PROPERTY IN ANY BOOK HEREAFTER TO BE PUBLISHED IN THE LIFETIME OF THE AUTHOR; OR AFTER THE AUTHOR'S DEATH.—The copyright in every book which shall after the passing of this Act be published in the lifetime of its author shall endure for the natural life of such author, and for the further term of seven years, commencing at the time of his death, and shall be the property of such author and his assigns: Provided always, that if the said term of seven years shall expire before the end of forty-two years from the first publication of such book, the copyright shall in that case endure for such period of forty-two years; and that the copyright in every book which shall be published after the death of its author shall endure for the term of forty-two years from the first publication thereof, and shall be the property of the proprietor of the author's manuscript from which such book shall be first published, and his assigns.

4. IN CASES OF SUBSISTING COPYRIGHT, THE TERM TO BE EXTENDED EXCEPT WHEN IT SHALL BELONG TO AN ASSIGNEE FOR OTHER CONSIDERATION THAN NATURAL LOVE AND AFFECTION; IN WHICH CASE IT SHALL CEASE AT THE EXPIRATION OF THE PRESENT TERM, UNLESS ITS EXTENSION BE AGREED TO BETWEEN THE PROPRIETOR AND THE AUTHOR.—[*Recital*] The copyright which at the time of passing this Act shall subsist in any book theretofore published (except as herein-after mentioned) shall be extended and endure for the full term provided by this Act in cases of books thereafter published, and shall be the property of the person who at the time of passing of this Act shall be the proprietor of such copyright: Provided always, that in all cases in which such copyright shall belong in whole or in part to a publisher or other person who shall have acquired it for other consideration than that of natural love and affection, such copyright shall not be extended by this Act, but shall endure for the term which shall subsist therein at the time of passing of this Act, and no longer, unless the author of such book, if he shall be living, or the personal representative of such author, if he shall be dead, and the proprietor of such copyright shall before the expiration of such term, consent and agree to accept the benefits of this Act in respect of such book, and shall cause a minute of such consent in the form in that behalf given in the schedule to this Act annexed to be entered in the book of registry herein-after directed to be kept, in which case such copyright shall endure for the full term by this Act provided in cases of books to be published after the passing of this Act, and shall be the property of such person or persons as in such minute shall be expressed.

5. JUDICIAL COMMITTEE OF THE PRIVY COUNCIL MAY LICENSE THE REPUBLICATION OF BOOKS WHICH THE PROPRIETOR REFUSES TO REPUBLISH AFTER DEATH OF THE AUTHOR.—[*Recital*] It shall be lawful for the judicial committee of Her Majesty's privy council, on complaint made to them that the proprietor of the copyright in any book after the death of its author has refused to republish or to allow the republication of the same, and that by reason of such refusal such book may be withheld from the public, to grant a licence to such complainant to publish such book, in such manner and subject to such conditions as they may think fit; and it shall be lawful for such complainant to publish such book according to such licence.

6. COPIES OF BOOKS PUBLISHED AFTER THE PASSING OF THIS ACT, AND OF ALL SUBSEQUENT EDITIONS, TO BE DELIVERED WITHIN CERTAIN TIMES AT THE BRITISH MUSEUM.—A printed copy of the whole of every book which shall be published after the passing of

this Act, together with all maps, prints, or other engravings belonging thereto, finished and coloured in the same manner as the best copies of the same shall be published, and also of any second or subsequent edition which shall be so published with any additions or alterations, whether the same shall be in letter press, or in the maps, prints, or other engravings belonging thereto, and whether the first edition of such book shall have been published before or after the passing of this Act, and also of any second or subsequent edition of every book of which the first or some preceding edition shall not have been delivered for the use of the British Museum, bound, sewed, or stitched together, and upon the best paper on which the same shall be printed, shall within one calendar month after the day on which any such book shall first be sold, published, or offered for sale within the bills of mortality, or within three calendar months, if the same shall first be sold, published, or offered for sale in any other part of the United Kingdom, or within twelve calendar months after the same shall first be sold, published, or offered for sale in any other part of the British dominions, be delivered on behalf of the publisher thereof, at the British Museum.

7. Mode of delivering Copies at the British Museum.—Every copy of any book which under the provisions of this Act ought to be delivered as aforesaid shall be delivered at the British Museum between the hours of ten in the forenoon and four in the afternoon on any day except Sunday, Ash Wednesday, Good Friday, and Christmas Day, to one of the officers of the said museum, or to some person authorized by the trustees of the said museum to receive the same; and such officer or other person receiving such copy is hereby required to give a receipt in writing for the same; and such delivery shall to all intents and purposes be deemed to be good and sufficient delivery under the provisions of this Act.

8. A Copy of every Book to be delivered within a month after demand to the Officer of the Stationers Company, for the following Libraries: the Bodleian at Oxford, the Public Library at Cambridge, the Library of the Faculty of Advocates at Edinburgh, and that of Trinity College, Dublin.—A copy of the whole of every book, and of any second or subsequent edition of every book containing additions and alterations, together with all maps and prints belonging thereto, which after the passing of this Act shall be published, shall, on demand thereof in writing, left at the place of abode of the publisher thereof at any time within twelve months next after the publication thereof, under the hand of the officer of the Company of Stationers who shall from time to time be appointed by the said Company for the purposes of this Act, or under the hand of any other person thereto authorized by the persons or bodies politic and corporate, proprietors and managers of the libraries following, (videlicet,) the Bodleian library at Oxford, the public library at Cambridge, the library of the Faculty of Advocates at Edinburgh, the library of the College of the Holy and Undivided Trinity of Queen Elizabeth near Dublin, be delivered, upon the paper of which the largest number of copies of such book or edition shall be printed for sale, in the like condition as the copies prepared for sale by the publisher thereof respectively, within one month after demand made thereof in writing as aforesaid, to the said officer of the said Company of Stationers for the time being, which copies the said officer shall and he is hereby required to receive at the hall of the said company, for the use of the library for which such demand shall be made within such twelve months as aforesaid; and the said officer is hereby required to give a receipt in writing for the same, and within one month after any such book shall be so delivered to him as aforesaid to deliver the same for the use of such library.

9. Publishers may deliver the Copies to the Libraries, instead of at the Stationers Company.—Provided also that if any publisher shall be desirous of delivering the copy of such book as shall be demanded on behalf of any of the said libraries at such library, it shall be lawful for him to deliver the same at such library, free of expence, to such librarian or other person authorized to receive the same (who is hereby required in such case to receive and give a receipt in writing for the same); and such delivery shall to all intents and purposes of this Act be held as equivalent to a delivery to the said officer of the Stationers Company.

10. Penalty for default in delivering Copies for the use of the Libraries.—If any publisher of any such book, or of any second or subsequent edition of any such book, shall neglect to deliver the same pursuant to this Act, he shall for every such default forfeit, besides the value of such copy of such book or edition which he ought

to have delivered, a sum not exceeding five pounds, to be recovered by the librarian or other officer (properly authorized) of the library for the use whereof such copy should have been delivered, in a summary way, on conviction before two justices of the peace for the county or place where the publisher making default shall reside, or by action of debt or other proceeding of the like nature, at the suit of such librarian or other officer, in any court of record in the United Kingdom; in which action, if the plaintiff shall obtain a verdict, he shall recover his costs reasonably incurred, to be taxed as between attorney and client.

11. Book of Registry to be kept at Stationers Hall—Copies of Entries to be given when required, and to be received in Evidence.—A book of registry, wherein may be registered, as herein-after enacted, the proprietorship in the copyright of books and assignments thereof, and in dramatic and musical pieces, whether in manuscript or otherwise, and licences affecting such copyright, shall be kept at the hall of the Stationers Company, by the officer appointed by the said company for the purposes of this Act, and shall at all convenient times be open to the inspection of any person, on payment of one shilling for every entry which shall be searched for or inspected in the said book; and such officer shall, whenever thereunto reasonably required, give a copy of any entry in such book, certified under his hand, and impressed with the stamp of the said company, to be provided by them for that purpose, and which they are hereby required to provide, to any person requiring the same, on payment to him of the sum of five shillings; and such copies so certified and impressed shall be received in evidence in all courts, and in all summary proceedings, and shall be primâ facie proof of the proprietorship or assignment of copyright or licence as therein expressed, but subject to be rebutted by other evidence, and in the case of dramatic or musical pieces shall be primâ facie proof of the right of representation or performance, subject to be rebutted as aforesaid.

12. Making a false entry in the Book of Registry a misdemeanor.—If any person shall wilfully make or cause to be made any false entry in the registry book of the Stationers Company, or shall wilfully produce or cause to be tendered in evidence any paper falsely purporting to be a copy of any entry in the said book, he shall be guilty of an indictable misdemeanor, and shall be punished accordingly.

13. Entries of Copyright may be made in the Book of Registry.—It shall be lawful for the proprietor of copyright in any book heretofore published, or in any book hereafter to be published, to make entry in the registry book of the Stationers Company of the title of such book, the time of the first publication thereof, the name and place of abode of the publisher thereof, and the name and place of abode of the proprietor of the copyright of the said book, or of any portion of such copyright, in the form in that behalf given in the schedule to this Act annexed, upon payment of the sum of five shillings to the officer of the said company; and it shall be lawful for every such registered proprietor to assign his interest, or any portion of his interest therein, by making entry in the said book of registry of such assignment, and of the name and place of abode of the assignee thereof, in the form given in that behalf in the said schedule, on payment of the like sum; and such assignment so entered shall be effectual in law to all intents and purposes whatsoever, without being subject to any stamp or duty, and shall be of the same force and effect as if such assignment had been made by deed.

14. Persons aggrieved by any Entry in the Book of Registry may apply to the Court, which may order such Entry to be varied or expunged.—If any person shall deem himself aggrieved by any entry made under colour of this Act in the said book of registry, it shall be lawful for such person to apply by motion to the Court of Queen's Bench . . . for an order that such entry may be expunged or varied; and upon any such application . . . such court shall make such order for expunging, varying, or confirming such entry, either with or without costs, as to such court shall seem just; and the officer appointed by the Stationers Company for the purposes of this Act shall, on the production to him of any such order for expunging or varying any such entry, expunge or vary the same according to the requisitions of such order.

S. 14 *in part rep.* 56 *&* 57 *Vict. c.* 14 (*S.L.R.*).

15. Remedy for the Piracy of Books by Action on the case.—If any person shall, in any part of the British dominions, print or cause to be printed, either for sale or exportation, any book in which there shall be subsisting copyright, without the consent

in writing of the proprietor thereof, or shall import for sale or hire any such book so having been unlawfully printed from parts beyond the sea, or, knowing such book to have been so unlawfully printed or imported, shall sell, publish, or expose to sale or hire, or cause to be sold, published, or exposed to sale or hire, or shall have in his possession, for sale or hire, any such book so unlawfully printed or imported, without such consent as aforesaid, such offender shall be liable to a special action on the case at the suit of the proprietor of such copyright, to be brought in any court of record in that part of the British dominions in which the offence shall be committed: Provided always, that in Scotland such offender shall be liable to an action in the court of session in Scotland, which shall and may be brought and prosecuted in the same manner in which any other action of damages to the like amount may be brought and prosecuted there.

16. In Actions for Piracy the Defendant to give notice of the Objections to the Plaintiff's Title on which he means to rely.—In any action brought within the British dominions against any person for printing any such book for sale, hire, or exportation, or for importing, selling, publishing, or exposing to sale or hire, or causing to be imported, sold, published, or exposed to sale or hire, any such book, the defendant, on pleading thereto, shall give to the plaintiff a notice in writing of any objections on which he means to rely on the trial of such action; and if the nature of his defence be, that the plaintiff in such action was not the author or first publisher of the book in which he shall by such action claim copyright, or is not the proprietor of the copyright therein, or that some other person than the plaintiff was the author or first publisher of such book, or is the proprietor of the copyright therein, then the defendant shall specify in such notice the name of the person who he alleges to have been the author or first publisher of such book, or the proprietor of the copyright therein, together with the title of such book, and the time when and the place where such book was first published, otherwise the defendant in such action shall not at the trial or hearing of such action be allowed to give any evidence that the plaintiff in such action was not the author or first publisher of the book in which he claims such copyright as aforesaid, or that he was not the proprietor of the copyright therein; and at such trial or hearing no other objection shall be allowed to be made on behalf of such defendant than the objections stated in such notice, or that any other person was the author or first publisher of such book, or the proprietor of the copyright therein, than the person specified in such notice, or give in evidence in support of his defence any other book than one substantially corresponding in title, time, and place of publication, with the title, time, and place specified in such notice.

17. No person, except the Proprietor, &c. shall import into the British Dominions for sale or hire any Book first composed, &c. within the United Kingdom, and reprinted elsewhere, under Penalty of Forfeiture thereof, and also of L.10 and double the Value—Books may be seized by Officers of Customs or Excise.—It shall not be lawful for any person, not being the proprietor of the copyright, or some person authorized by him, to import into any part of the United Kingdom, or into any other part of the British dominions, for sale or hire, any printed book first composed or written or printed and published in any part of the said United Kingdom, wherein there shall be copyright, and reprinted in any country or place whatsoever out of the British dominions; and if any person, not being such proprietor or person authorized as aforesaid, shall import or bring, or cause to be imported or brought, for sale or hire, any such printed book, into any part of the British dominions, contrary to the true intent and meaning of this Act, or shall knowingly sell, publish, or expose to sale or let to hire, or have in his possession for sale or hire, any such book, then every such book shall be forfeited, and shall be seized by any officer of customs or excise, and the same shall be destroyed by such officer; and every person so offending, being duly convicted thereof before two justices of the peace for the county or place in which such book shall be found, shall also for every such offence forfeit the sum of ten pounds, and double the value of every copy of such book which he shall so import or cause to be imported into any part of the British dominions, or shall knowingly sell, publish, or expose to sale or let to hire, or shall cause to be sold, published, or exposed to sale or let to hire, or shall have in his possession for sale or hire, contrary to the true intent and meaning of this Act, five pounds to the use of such officer of customs or excise, and the remainder of the penalty to the use of the proprietor of the copyright in such book.

18. Copyright in Encyclopædias, Periodicals, and Works published in a series,

Reviews, or Magazines—Proviso for Authors who have reserved the right of publishing their Articles in a separate Form.—When any publisher or other person shall, before or at the time of the passing of this Act, have projected, conducted, and carried on, or shall hereafter project, conduct, and carry on, or be the proprietor of any encyclopædia, review, magazine, periodical work, or work published in a series of books or parts, or any book whatsoever, and shall have employed or shall employ any persons to compose the same, or any volumes, parts, essays, articles, or portions thereof, for publication in or as part of the same, and such work, volumes, parts, essays, articles, or portions shall have been or shall hereafter be composed under such employment, on the terms that the copyright therein shall belong to such proprietor, projector, publisher, or conductor, and paid for by such proprietor, projector, publisher, or conductor, the copyright in every such encyclopædia, review, magazine, periodical work, and work published in a series of books or parts, and in every volume, part, essay, article, and portion so composed and paid for, shall be the property of such proprietor, projector, publisher, or other conductor, who shall enjoy the same rights as if he were the actual author thereof, and shall have such term of copyright therein as is given to the authors of books by this Act; except only that in the case of essays, articles, or portions forming part of and first published in reviews, magazines, or other periodical works of a like nature, after the term of twenty-eight years from the first publication thereof respectively the right of publishing the same in a separate form shall revert to the author for the remainder of the term given by this Act: Provided always, that during the term of twenty-eight years the said proprietor, projector, publisher, or conductor shall not publish any such essay, article or portion separately or singly without the consent previously obtained of the author thereof, or his assigns: Provided also, that nothing herein contained shall alter or affect the right of any person who shall have been or who shall be so employed as aforesaid to publish any such his composition in a separate form, who by any contract, express or implied, may have reserved or may hereafter reserve to himself such right; but every author reserving, retaining, or having such right shall be entitled to the copyright in such composition when published in a separate form, according to this Act, without prejudice to the right of such proprietor, projector, publisher or conductor as aforesaid.

19. Proprietors of Encyclopædias, Periodicals, and Works published in a series, may enter at once at Stationers Hall, and thereon have the benefit of the Registration of the whole.—The proprietor of the copyright in any encyclopædia, review, magazine, periodical work, or other work published in a series of books or parts, shall be entitled to all the benefits of the registration at Stationers Hall under this Act, on entering in the said book of registry the title of such encyclopædia, review, periodical work, or other work published in a series of books or parts, the time of the first publication of the first volume, number, or part thereof, or of the first number or volume first published after the passing of this Act in any such work which shall have been published heretofore, and the name and place of abode of the proprietor thereof, and of the publisher thereof, when such publisher shall not also be the proprietor thereof.

20. Provisions of recited Act and this Act shall apply to Musical Compositions; and the sole liberty of representing Dramatic Pieces and performing Musical Compositions shall remain in the Author during the term of Copyright provided by this Act.—[*Recital of 3 & 4 Will. 4, c. 15*] The provisions of the said Act of his late Majesty, and of this Act, shall apply to musical compositions; and the sole liberty of representing or performing, or causing or permitting to be represented or performed, any dramatic piece or musical composition, shall endure and be the property of the author thereof, and his assigns, for the term in this Act provided for the duration of the copyright in books; and the provisions herein-before enacted in respect of the property of such copyright, and of registering the same, shall apply to the liberty of representing or performing any dramatic piece or musical composition, as if the same were herein expressly re-enacted and applied thereto, save and except that the first public representation or performance of any dramatic piece or musical composition shall be deemed equivalent, in the construction of this Act, to the first publication of any book: Provided always, that in case of any dramatic piece or musical composition in manuscript, it shall be sufficient for the person having the sole liberty of representing or performing or causing to be represented or performed the same, to register only the title thereof, the name and place of abode of the author or composer thereof, the name and

place of abode of the proprietor thereof, and the time and place of its first representation or performance.

21. Proprietors of right of Dramatic Representations shall have all the Remedies given by 3 & 4 Will. 4, c. 15.—The person who shall at any time have the sole liberty of representing such dramatic piece or musical composition shall have and enjoy the remedies given and provided in the said Act of the third and fourth years of the reign of his late Majesty King William the Fourth, passed to amend the laws relating to dramatic literary property, during the whole of his interest therein, as fully as if the same were re-enacted in this Act.

22. Assignment of Copyright of a Dramatic Piece not to convey the right of Representation.—No assignment of the copyright of any book consisting of or containing a dramatic piece or musical composition shall be holden to convey to the assignee the right of representing or performing such dramatic piece or musical composition, unless an entry in the said registry book shall be made of such assignment, wherein shall be expressed the intention of the parties that such right should pass by such assignment.

23. Books pirated shall become the property of the Proprietor of the Copyright, and may be recovered by Action.—All copies of any book wherein there shall be copyright, and of which entry shall have been made in the said registry book, and which shall have been unlawfully printed or imported without the consent of the registered proprietor of such copyright in writing under his hand first obtained, shall be deemed to be the property of the proprietor of such copyright, and who shall be registered as such; and such registered proprietor shall, after demand thereof in writing, be entitled to sue for and recover the same, or damages for the detention thereof, in an action of detinue, from any party who shall detain the same, or to sue for and recover damages for the conversion thereof in an action of trover.

24. No Proprietor of Copyright commencing after this Act shall sue or proceed for any Infringement before making entry in the Book of Registry—Proviso for Dramatic Pieces.—No proprietor of copyright in any book which shall be first published after the passing of this Act shall maintain any action or suit, at law or in equity, or any summary proceeding, in respect of any infringement of such copyright, unless he shall, before commencing such action, suit, or proceeding, have caused an entry to be made, in the book of registry of the Stationers Company, of such book, pursuant to this Act: Provided always that the omission to make such entry shall not affect the copyright in any book, but only the right to sue or proceed in respect of the infringement thereof as aforesaid: Provided also, that nothing herein contained shall prejudice the remedies which the proprietor of the sole liberty of representing any dramatic piece shall have by virtue of the Act passed in the third year of the reign of his late Majesty King William the Fourth, to amend the laws relating to dramatic literary property, or of this Act, although no entry shall be made in the book of registry aforesaid.

25. Copyright shall be Personal Property.—All copyright shall be deemed personal property, and shall be transmissible by bequest, or in case of intestacy, shall be subject to the same law of distribution as other personal property, and in Scotland shall be deemed to be personal and moveable estate.

[*S.* **26** *rep.* 56 *&* 57 *Vict. c.* 61.]

27. Saving the Rights of the Universities and the Colleges of Eton, Westminster, and Winchester.—Provided always, that nothing in this Act contained shall affect or alter the rights of the two universities of Oxford and Cambridge, the colleges or houses of learning within the same, the four universities in Scotland, the college of the Holy and Undivided Trinity of Queen Elizabeth near Dublin, and the several colleges of Eton, Westminster, and Winchester, in any copyrights heretofore and now vested or hereafter to be vested in such universities and colleges respectively, anything to the contrary herein contained notwithstanding.

28. Saving as to subsisting Rights, Contracts, and Engagements.—Provided also, that nothing in this Act contained shall affect, alter, or vary any right subsisting at the time of passing of this Act, except as herein expressly enacted; and all contracts, agreements, and obligations made and entered into before the passing of this Act, and

all remedies relating thereto, shall remain in full force, anything herein contained to the contrary notwithstanding.

29. Extent of Act.—This Act shall extend to the United Kingdom of Great Britain and Ireland, and to every part of the British dominions.

[*S.* **30** *rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*).]

Schedule to which the preceding Act refers.

No. 1.

Form of Minute of Consent to be entered at Stationers Hall.

We, the undersigned, A.B. of the author of a certain book, intituled Y.Z. [or the personal representative of the author, as the case may be], and C.D. of do hereby certify, that we have consented and agreed to accept the benefits of the Act passed in the fifth year of the reign of Her Majesty Queen Victoria, cap. , for the extension of the term of copyright therein provided by the said Act, and hereby declare that such extended term of copyright therein is the property of the said A.B. or C.D.

Dated this day of 18 .

Witness . (Signed) A.B.
C.D.

To the Registering Officer appointed by the Stationers Company.

No. 2.

Form of requiring Entry of Proprietorship.

I A.B. of do hereby certify, that I am the proprietor of the copyright of a book, intituled Y.Z., and I hereby require you to make entry in the register book of the Stationers Company of my proprietorship of such copyright, according to the particulars underwritten.

Title of Book.	Name of Publisher, and Place of Publication.	Name and Place of Abode of the Proprietor of the Copyright.	Date of First Publication.
Y. Z.		A.B.	

Dated this day of 18 .

Witness, C.D. (Signed) A.B.

No. 3.

ORIGINAL Entry of Proprietorship of Copyright of a Book.

Time of making the Entry.	Title of Book.	Name of the Publisher, and Place of Publication.	Name and Place of Abode of the Proprietor of the Copyright.	Date of First Publication.
	Y.Z.	A.B.	C.D.	

No. 4.

FORM of Concurrence of the Party assigning in any Book previously registered.

I A.B. of being the assigner of the copyright of the book hereunder described, do hereby require you to make entry of the assignment of the copyright therein.

Title of Book.	Assigner of the Copyright.	Assignee of Copyright.
Y.Z.	A.B.	C.D.

Dated this day of 18 .

(Signed) A.B.

No. 5.

FORM of Entry of Assignment of Copyright in any Book previously registered.

Date of Entry.	Title of Book.	Assigner of the Copyright.	Assignee of Copyright.
	[Set out the title of the book, and refer to the page of the registry book in which the original entry of the copyright thereof is made.]	A.B.	C.D.

CHAPTER XLVII.

THE CUSTOMS ACT, 1842 (*Short Titles Act*, 1896).

AN ACT to amend the Laws relating to the Customs. [9th July 1842.]

[*Preamble.*]

[*Whole Act except ss.* 59, 60, 62 *rep.* 8 *&* 9 *Vict. c.* 84, *s.* 2. *S.* **62** *rep.* 51 *&* 52 *Vict. c.* 57 (*S.L.R.*).]

59. FOREIGN GOLD AND SILVER PLATE IMPORTED, NOT BEING BATTERED, NOT TO BE SOLD, UNLESS OF THE PROPER STANDARD, AND DULY ASSAYED.—All gold and silver plate, not being battered, which shall be imported from foreign parts after the commencement of this Act, and sold, exchanged, or exposed to sale within the United Kingdom of Great Britain and Ireland, shall be of the respective standards now required for any ware, vessel, plate, or manufacture of gold or silver wrought or made in England; and no gold or silver plate so to be imported as aforesaid, not being battered, shall be sold, exchanged, or exposed to sale within the said United Kingdom, until the same shall have been assayed, stamped, and marked, either in England, Scotland, or Ireland, in the same manner as any ware, vessel, plate, or manufacture of gold or silver wrought or made in England, Scotland, or Ireland respectively is or are now by law required to be assayed, stamped, and marked; and every goldsmith, silversmith, or other person whatsoever, who shall sell or expose to sale in England, Scotland, or Ireland any gold or silver plate so to be imported as aforesaid, and not being battered, before the same shall have been so assayed, stamped, and marked as aforesaid, shall be subject and liable to the like penalties and forfeitures in all respects, and to be recoverable in the same manner as the penalties and forfeitures now by law imposed upon goldsmiths and silversmiths selling, exchanging, or exposing to sale in England, Scotland, or Ireland respectively any ware or manufacture of gold or silver plate made or wrought in England, Scotland, or Ireland respectively, and not assayed, stamped, and marked as required by law: Provided always, that no article or ware of gold or silver so to be imported as aforesaid shall be liable to be assayed, stamped, or marked as aforesaid, which would not be liable to be assayed, stamped, or marked, if it had been wrought or made in England.

60. POWER OF SENDING TO BE ASSAYED AND OF ASSAYING AT THE ASSAY OFFICES GOLD AND SILVER PLATE IMPORTED.—In order that gold and silver plate so imported as aforesaid may be assayed, stamped, and marked, it shall and may be lawful for any person to send the same to any assay office in the United Kingdom at which gold and silver plate is now by law required to be assayed; and, when so sent, it shall be assayed, tested, stamped, and marked in such and the same manner, and be subject to such and the same charges, other than stamp duty, as if the same were British plate by law assayable in such office; and the wardens and officers in each such assay offices, and the persons employed by them, shall have such and the same powers of assaying, touching, testing, marking, cutting, breaking, or defacing such gold and silver plate so sent to be assayed, as are now by law exercisable by such wardens, officers, and other persons, in respect of gold and plate now by law required to be assayed in such assay offices.

CHAPTER LI.

THE TREASON ACT, 1842 (*Short Titles Act*, 1896).

AN ACT for providing for the further Security and Protection of Her Majesty's Person. [16th July 1842.]

[*Preamble.*]

1. PROCEEDINGS AGAINST PERSONS GUILTY OF ATTEMPT AGAINST THE PERSON OF THE SOVEREIGN—7 & 8 WILL. 3, c. 3, 7 ANN. c. 21, 6 GEO. 4, c. 50, s. 21.—In all cases of high treason in compassing or imagining any bodily harm tending to the death or

destruction, maiming or wounding, of the Queen, and in all cases of misprision of any such treason, where the overt act or overt acts of such treason alleged in the indictment shall be any attempt to injure in any manner whatsoever the person of the Queen, the person or persons charged with such offence shall and may be indicted, arraigned, tried, and attainted, in the same manner, and according to the same course and order of trial, in every respect, and upon the like evidence as if such persons stood charged with murder; and none of the provisions contained in the several Acts of the seventh year of King William the Third, and the seventh year of Queen Anne, and the sixth year of King George the Fourth, respectively, touching trials in cases of treason and misprision of treason respectively, shall extend to any indictment for high treason in compassing or imagining the death or destruction of the Queen, or to any indictment for high treason in compassing and imagining any bodily harm tending to the death or destruction, maiming or wounding, of the Queen, or for misprision of such treason, where the overt act or acts of such treason alleged in the indictment shall be such as aforesaid; but, upon conviction upon such indictment, judgment shall be nevertheless given and execution done as in other cases of high treason; any law, statute, or usage to the contrary notwithstanding.

2. Punishment for discharging or aiming Fire-arms, or throwing or using any offensive Matter or Weapon, with intent to injure or alarm her Majesty.—If any person shall wilfully discharge or attempt to discharge, or point, aim, or present at or near to the person of the Queen, any gun, pistol, or any other description of fire-arms or of other arms whatsoever, whether the same shall or shall not contain any explosive or destructive material, or shall discharge or cause to be discharged, or attempt to discharge or cause to be discharged, any explosive substance or material near to the person of the Queen, or if any person shall wilfully strike or strike at, or attempt to strike or to strike at, the person of the Queen, with any offensive weapon, or in any other manner whatsoever, or if any person shall wilfully throw or attempt to throw any substance, matter, or thing whatsoever at or upon the person of the Queen, with intent in any of the cases aforesaid to injure the person of the Queen, or with intent in any of the cases aforesaid to break the public peace, or whereby the public peace may be endangered, or with intent in any of the cases aforesaid to alarm her Majesty, or if any person shall, near to the person of the Queen, wilfully produce or have any gun, pistol, or any other description of fire-arms or other arms whatsoever, or any explosive, destructive, or dangerous matter or thing whatsoever, with intent to use the same to injure the person of the Queen, or to alarm her Majesty, every such person so offending shall be guilty of a high misdemeanor, and being convicted thereof in due course of law, shall be liable, at the discretion of the court before which the said person shall be so convicted, to be transported beyond the seas for the term of seven years, or to be imprisoned, . . . and during the period of such imprisonment to be publicly or privately whipped, as often and in such manner and form as the said court shall order and direct, not exceeding thrice.

S. 2 *in part rep.* 55 *&* 56 *Vict. c.* 19 (*S.L.R.*).

3. Act not to alter the Punishment for High Treason, &c.—Provided always, that nothing herein contained shall be deemed to alter in any respect the punishment which by law may now be inflicted upon persons guilty of high treason or misprision of treason.

CHAPTER LV.

The Railway Regulation Act, 1842 (*Short Titles Act*, 1896).

An Act for the better Regulation of Railways, and for the Conveyance of Troops. [30th July 1842.]

[*Preamble recites* 3 *&* 4 *Vict. c.* 97.]

[*S.* **1** *rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*).]

2. Recited Act and this Act to be construed together.—The provisions of the said

recited Act and of this Act shall be construed together as one Act, except so far as the provisions of the said recited Act are hereby repealed, or shall be inconsistent with the provisions of this Act.

[*S.* **3** *rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*).]

4. Notice of intended opening of Railway for conveyance of Passengers.—No railway or portion of any railway shall be opened for the public conveyance of passengers until one calendar month after notice in writing of the intention of opening the same shall have been given, by the company to whom such railway shall belong, to the lords of the committee of her Majesty's privy council appointed for trade and foreign plantations, and until ten days after notice in writing shall have been given by the said company to the lords of the said committee of the time when the said railway or portion of a railway will be, in their opinion, sufficiently completed for the safe conveyance of passengers, and ready for inspection.

See note to s. 6.

5. If Railway opened without notice, Company to forfeit L.20 per diem.—If any railway or portion of any railway shall be opened without such notice as aforesaid, the company to whom such railway shall belong shall forfeit to her Majesty the sum of twenty pounds for every day during which the same shall continue open until the said notices shall have been duly given and shall have expired; and every such penalty may be recovered in any of her Majesty's courts of record, or in the court of session or in any of the sheriffs courts in Scotland.

See note to s. 6.

6. Board of Trade may postpone the opening.—If the officer or officers appointed by the lords of the said committee to inspect any such railway or portion of railway shall, after inspection thereof, report in writing to the lords of the said committee that in his or their opinion the opening of the same would be attended with danger to the public using the same by reason of the incompleteness of the works or permanent way, or the insufficiency of the establishment for working such railway, together with the grounds of such opinion, it shall be lawful for the lords of the said committee, and so from time to time, as often as such officers shall after further inspection thereof so report, to order and direct the company, to whom such railway shall belong, to postpone such opening for any period not exceeding one calendar month at any one time until it shall appear to the lords of the said committee that such opening may take place without danger to the public; and if any such railway, or any portion thereof, shall be opened contrary to any such order and direction of the lords of the said committee, the company, to whom such railway shall belong, shall forfeit to her Majesty the sum of twenty pounds for every day during which the same shall continue open contrary to such order and direction; and any such penalty may be recovered in any of her Majesty's courts of record, or in the court of session or in any of the sheriffs courts in Scotland: Provided always, that no such order as aforesaid shall be binding upon any railway company unless therewith shall be delivered to the said company a copy of the report of the officer or officers on which such order shall be founded.

Ss. 4–6 *are extended to the opening of additional lines and other works,* 34 *&* 35 *Vict. c.* 78, *s.* 5.

[*Ss.* **7, 8** *rep.* 34 *&* 35 *Vict. c.* 78, *s.* 17.]

9. 2 & 3 Vict. c. 45—Gates, where Railways cross Turnpike or other Roads, shall be kept closed across each end of the Turnpike or other Roads.—And whereas by an Act passed in the second and third years of her present Majesty, and intituled "An Act to amend an Act of the fifth and sixth years of his late Majesty "King William the Fourth relating to highways," it was enacted, that whenever a railway crosses or shall hereafter cross any turnpike road, or any other highway or statute labour road for carts or carriages in Great Britain, the proprietors or directors of the said railway shall make and maintain good and sufficient gates across each end of such turnpike or other road at each end of the said crossings, and shall employ good and proper persons to open and shut such gates, so that the persons, carts, or carriages passing along such turnpike or other road shall not be exposed to any danger or damage by the passing of any carriages or engines along the said railway: And whereas

by the Acts relating to certain railways it is provided that such gates shall be kept constantly closed across the railway, except during the time when carriages or engines passing along the railway shall have to cross such turnpike or other road: And whereas experience has shown that it is more conducive to safety that such gates should be kept closed across the turnpike or other road instead of across the railway: Be it therefore enacted, that, notwithstanding anything to the contrary contained in any Act of Parliament heretofore passed, such gates shall be kept constantly closed across each end of such turnpike or other roads, in lieu of across the railway, except during the time when horses, cattle, carts, or carriages passing along such turnpike or other road shall have to cross such railway; such gates shall be of such dimensions and so constructed as, when closed across the ends of such turnpike or other roads, to fence in the railway, and prevent cattle or horses passing along the road from entering upon the railway while the gates are closed: Provided always, that it shall be lawful for the lords of the said committee, in any case in which they are satisfied that it will be more conducive for the public safety that the gates at any level crossing over any such turnpike or other road should be kept closed across the railway, to order and direct that such gates shall be kept so closed, instead of across the road; and such order of the lords of the said committee shall be a sufficient authority for the directors or proprietors of any railway company to whom such order is addressed for keeping such gates closed, in the manner directed by the lords of the said committee.

10. Railway Companies to erect and maintain Fences.—[*Recital*] All railway companies shall be under the same liability of obligation to erect, and to maintain and repair, good and sufficient fences throughout the whole of their respective lines, as they would have been if every part of such fences had been originally ordered to be made under an order of justices by virtue of the provisions to that effect in the Acts of Parliaments relating to such railways respectively.

11. Disputes between connecting Railways to be decided by the Board of Trade.—Where two or more railway companies whose railways have a common terminus or a portion of the same line of rails in common, or which form separate portions of one continued line of railway communication, shall not be able to agree upon arrangements for conducting at such common terminus, or at the point of junction between them, their joint traffic with safety to the public, it shall be lawful for the lords of the said committee, upon the application of either of the parties, to decide the questions in dispute between them, so far as the same relate to the safety of the public, and to order and determine whether the whole or what proportion of the expenses attending on such arrangements shall be borne by either of the parties respectively; and if any railway company shall refuse or wilfully neglect to obey any such order made upon or against such company by the lords of said committee pursuant to this provision, such company shall forfeit to her Majesty the sum of twenty pounds per day for every day during which such refusal or neglect shall continue; and every such penalty may be recovered in any of her Majesty's courts of record or in the court of session or in any of the sheriffs courts in Scotland.

12. Powers of making Branch Communication with Passenger Railways, and of entering upon them with Locomotive Engines, to be regulated by the Board of Trade.—[*Recital refers to powers of laying down branch lines opening into main lines, and of entering and passing along such main lines with carriages and waggons drawn by locomotives, and powers to form roads or railways across existing railways on the level, given by various Acts to owners and occupiers of lands adjoining the railway, and to other persons with their consent*] If in the case of any railway on which passengers are conveyed by steam or other mechanical power, it shall appear to the lords of the said committee that such power as aforesaid cannot be so exercised without seriously endangering the public safety, and that an arrangement may be made with a due regard to existing rights of property, it shall be lawful for the lords of the said committee to order and direct that such powers shall only be exercised subject to such conditions as the lords of the said committee shall direct: Provided always, that no railway shall be considered a passenger railway if two thirds or more of the gross annual revenue of such railway shall be derived from the carriage thereon of coals, ironstone, or other metals or minerals.

13. Power to build Bridges, &c. in lieu of Level Crossings.—And whereas in many cases railways have been made to cross turnpike roads, highways, and private

roads, and tramways on the level, and the companies to whom such railways belong would in some cases be willing, at their own expence, to carry such roads and tramways over or under such railways by means of a bridge or archway for the greater safety of the public, but have no authority so to do: And whereas it would promote the public safety if railway companies were enabled, under the sanction and authority of the lords of the said committee, to substitute bridges or archways for such level crossing as aforesaid: Be it therefore enacted, that in all cases where any railway company shall be willing, at their own expence, to carry any turnpike road, highway, or private road or tramway over or under their railway by means of a bridge or arch in lieu of crossing the same on the level, it shall be lawful for the lords of the said committee, on the application of the said company, and after hearing the several parties interested, if it shall appear to the lords of the said committee that such level crossing endangers the public safety, and that the proposal of the company does not involve any violation of existing rights or interests without adequate compensation, to give the said company full power and authority for removing the danger, at their own expense, either by building a bridge or by such other arrangement as the nature of the case shall require, subject to such conditions as the lords of the said committee shall direct.

14. Power for Railway Companies to enter upon adjoining Lands to repair or prevent Accidents.—[*Recital*] It shall be lawful for the lords of the said committee to empower any railway company, in case of any accident or slip happening or being apprehended to any cutting, embankment, or other work belonging to them, to enter upon any lands adjoining their railway for the purpose of repairing or preventing such accident, and to do such works as may be necessary for the purpose: Provided always, that in case of necessity it shall be lawful for any railway company to enter upon such lands, and do such works as aforesaid, without having obtained the previous sanction of the lords of the said committee; but in every such case such railway company shall, within forty-eight hours after such entry, make a report to the lords of the said committee, specifying the nature of such accident or apprehended accident, and of the works necessary to be done, and such powers shall cease and determine if the lords of the said committee shall, after considering the said report, certify that their exercise is not necessary for the public safety: Provided also, that such works shall be as little injurious to the said adjoining lands as the nature of the accident or apprehended accident will admit of, and shall be executed with all possible despatch; and full compensation shall be made to the owners and occupiers of such lands for the loss or injury or inconvenience sustained by them respectively by reason of such works, the amount of which compensation, in case of any dispute about the same, shall be settled in the same manner as cases of disputed compensation are directed to be settled by the Acts relating to the railway on which such works may become necessary: Provided always, that no land shall be taken permanently by any railway company for such works without a certificate from the lords of the said committee as herein-after described.

15. Compulsory Powers of taking Land for the purposes of Railways extended where thought necessary for safety by the Board of Trade.—And whereas by various Acts relating to railways compulsory powers are given to railway companies of purchasing and taking lands for the construction of such railways, and it is provided that such compulsory powers shall not be exercised after the expiration of certain limited periods from the passing of the said Acts: And whereas it is sometimes found necessary for the public safety that additional land should be taken after the expiration of such periods for the purpose of giving increased width to the embankments and inclination to the slopes of railways, or for making approaches to bridges or archways, or for doing such works for the repair or prevention of accidents as are herein-before described: Be it therefore enacted, that in every case in which the lords of the said committee shall certify that the public safety requires additional land to be taken by any railway company for such purposes as aforesaid, the compulsory powers of purchasing and taking land contained in the Act or Acts of such railway company, together with all the clauses and provisions relative thereto, shall, as regards such portion or portions of land as are mentioned in the certificate of the lords of the said committee, revive and be in full force for such further period as shall be mentioned in such certificate: Provided always that any railway company applying to the lords of the said committee for any such certificate shall give fourteen days notice in writing, in the manner prescribed by the Act or Acts of such company for serving notices on landowners, of their intention to make such

application, to all the parties interested in such lands, or such of them as shall be known to the company, and shall state in such notice the particulars of the lands required; and if any of such parties interested shall apply within the said period of fourteen days to the lords of the said committee, such party shall be heard by them before any such certificate is given: Provided also, that where any such application shall have been made by any railway company to the lords of the said committee, upon which application any such certificate shall have been refused, the directors of such railway company shall, if required by the lords of the said committee, repay to the party resisting such application any expenses which he or they may have incurred in resisting such application.

16. Carriages of greater weight than Four Tons may be used on Railways.—[*Recital*] . . . Notwithstanding anything in any Act contained, it shall be lawful for any railway company to use and to permit to be used upon any railway carriages or waggons carrying or bearing (including the weight of such carriage) a greater weight than four tons, subject to such regulations as may from time to time be made and be in force pursuant to any Act or Acts of Parliament already or hereafter to be passed in that behalf.

S. 16 *in part rep.* 53 & 54 *Vict. c.* 51 (*S.L.R.*).

17. Punishment of persons employed on Railways guilty of misconduct.—[*Recital*] It shall be lawful for any officer or agent of any railway company, or for any special constable duly appointed, and all such persons as they may call to their assistance, to seize and detain any engine driver, waggon driver, guard, porter, servant, or other person employed by the said or by any other railway company or by any other company or person, in conducting traffic upon the railway belonging to the said company, or in repairing and maintaining the works of the said railway, who shall be found drunk while so employed upon the said railway, who shall commit any offence against any of the bye-laws, rules, or regulations of the said company, or who shall wilfully, maliciously, or negligently do or omit to do any act whereby the life or limb of any person passing along or being upon such railway or the works thereof respectively shall be or might be injured or endangered, or whereby the passage of any engines, carriages, or trains shall be or might be obstructed or impeded, and to convey such engine driver, guard, porter, servant, or other person so offending, or any person counselling, aiding, or assisting in such offence, with all convenient despatch, before some justice of the peace for the place within which such offence shall be committed, without any other warrant or authority than this Act; and every such person so offending, and every person counselling, aiding, or assisting therein, as aforesaid, shall, when convicted upon the oath of one or more credible witness or witnesses before such justice as aforesaid (who is hereby authorized and required, upon complaint to him made upon oath, without information in writing, to take cognizance thereof, and to act summarily in the premises), in the discretion of such justice, be imprisoned, with or without hard labour, for any term not exceeding two calendar months, or, in the like discretion of such justice, shall for every such offence forfeit to her Majesty any sum not exceeding ten pounds, and in default of payment thereof shall be imprisoned, with or without hard labour, as aforesaid, for such period not exceeding two calendar months as such justice shall appoint, such commitment to be determined on payment of the amount of the penalty; and every such penalty shall be returned to the next ensuing court of quarter sessions in the usual manner.

18. Sheriffs to have Jurisdiction in Scotland.—In all cases in which by the present or the said recited Act for regulating railways it is provided that offenders shall be taken before one or more justices of the peace for the place within which the offence was committed, it shall be lawful, in case the offence is committed in Scotland, to take such offenders before the sheriff of the county, or other magistrate acting for the district within which such offence shall be committed, or where such offender shall be apprehended, without any warrant or authority other than this Act; and such sheriff or magistrate is hereby empowered and required, on the application of the railway company, to proceed in all respects as if the words "sheriff or magistrate" had been substituted for the word "justice" in the said Acts, and shall be entitled summarily, and without a jury, to execute the powers thereby and hereby committed to him.

[*S.* **19** *rep.* 31 & 32 *Vict. c.* 119, *s.* 47. *S.* **20** *rep.* 46 & 47 *Vict. c.* 34, *s.* 10 (*but see terms of repeal*).]

21. Meaning of the words "Railway" and "Company."—Whenever the word "railway" is used in this or in the said recited Act it shall be construed to apply to all railways, used or intended to be used for the conveyance of passengers in or upon carriages drawn or impelled by the power of steam or by any other mechanical power; and whenever the word "company" is used in this or in the said recited Act it shall be construed to extend to and include the proprietors for the time being of any such railway, whether a body corporate or individuals, and their lessees, executors, administrators, and assigns, unless in either of the above cases the subject of context be repugnant to such construction.

22. Recovery and Application of Penalties.—All penalties under this Act for the application of which no special provision is made shall be recovered in the name and for the use of her Majesty, in the manner provided by the said recited Act for regulating railways.

[*S.* **23** *rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*).]

CHAPTER LVI.

The Customs (Amendment) Act, 1842 (*Short Titles Act*, 1896).

An Act for further amending the Laws relating to the Customs. [30th July 1842.]

[*Whole Act, except s.* 6, *rep.* 8 *&* 9 *Vict. c.* 84, *s.* 2.]

6. Ornamental Plate of Foreign Manufacture made prior to the year 1800 may be sold without being assayed—In case of Action, the proof that the Plate was made before 1800, or was imported before the passing of 5 & 6 Vict. c. 47, shall lie on Defendant.—[*Recital of* 5 *&* 6 *Vict. c.* 47, *s.* 59] It shall be lawful to sell, exchange, or expose to sale any gold or silver plate which since the passing of the said Act shall have been or henceforth shall be imported from foreign parts, such gold or silver plate being of foreign manufacture, and of an ornamental kind, and having been made or wrought previous to the year one thousand eight hundred, notwithstanding such gold or silver plate shall not be of such standard as aforesaid, and shall not be assayed, stamped, or marked as by the said last mentioned Act is required, any thing in the said last-mentioned Act in anywise notwithstanding: Provided always, that in any action, suit, or other proceeding against any party for any forfeiture or penalty for selling, exchanging, or exposing to sale any gold or silver plate imported from foreign parts, before the same shall have been assayed, stamped, or marked as in the said Act is mentioned, the proof that the same was manufactured previous to the year one thousand eight hundred, or that the same was imported previous to the passing of the said last mentioned Act shall lie on such party.

CHAPTER LXXIX.

The Railway Passenger Duty Act, 1842 (*Short Titles Act*, 1896).

An Act to repeal the Duties payable on Stage Carriages and on Passengers conveyed upon Railways, and certain other Stamp Duties in Great Britain, and to grant other Duties in lieu thereof; and also to amend the laws relating to the Stamp Duties. [5th August 1842.]

[*Preamble recites* 2 *&* 3 *Vict. c.* 66; 2 *&* 3 *Will.* 4, *c.* 120; 55 *Geo.* 3, *c.* 184.]

[*S.* **1** *rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*).]

2. New Duties to be levied, as set forth in the Schedule.—There shall be raised, levied, collected, and paid, unto and for the use of her Majesty, in and throughout Great Britain, . . . for and in respect of the passengers conveyed upon any

railway, . . . the several duties or sums of money set down in figures against the same respectively, or otherwise specified and set forth in the same schedule and the said schedule shall be deemed and taken to be a part of this Act; . . . . . .

S. 2 *in part rep.* 37 & 38 *Vict. c.* 96 (*S.L.R.*).

[*S.* **3** *rep.* 33 & 34 *Vict. c.* 99, *s.* 2.]

4. ACCOUNTS TO BE KEPT OF MONEY RECEIVED FOR THE CONVEYANCE OF PASSENGERS ON RAILWAYS; AND OF MONEY PAID BY ANY PERSONS CARRYING SUCH PASSENGERS TO THE PROPRIETORS OF ANY OTHER RAILWAY, ON ACCOUNT OF FARES RECEIVED, OR AS TOLL FOR THE USE OF THE RAILWAY—ACCOUNTS TO BE VERIFIED BY AFFIDAVIT—DUTIES TO BE PAID WHEN ACCOUNT IS DELIVERED.—The proprietor or company of proprietors of every railway in Great Britain, and every other person who shall carry or convey or cause to be carried or conveyed any passenger for hire in or upon any railway in Great Britain, shall from time to time and at all times, keep and enter or cause to be entered in a book or books to be kept for that purpose, in such manner and form as the commissioners of stamps and taxes shall direct or approve, a just and true account of all and every sum and sums of money which shall be received or charged daily by or for such proprietor or company or other person for the hire, fare, or conveyance of all such passengers as aforesaid, whether the same shall be received for the conveyance of passengers on the railway of such proprietor or company or other person only, or on such last-mentioned railway and any other railway, or on any such other railway only, and for or in respect of all which sums of money the duties charged by this Act shall, in manner herein-after directed, be paid by the said proprietor or company or other person so receiving or charging the same as aforesaid, without any deduction or abatement thereout on any account or pretence whatever; and the proprietor or company of proprietors of any railway so receiving or charging any such sums of money as aforesaid shall also in like manner keep and enter or cause to be entered an account of all sums of money paid or accounted for, or to be paid or accounted for, by such proprietor or company to the proprietor or company of proprietors of any other railway (specifying the same) upon which any of such passengers shall be carried or conveyed, as his or their share or proportion of any such sums of money so received or charged as aforesaid or as or for or in the nature of toll or otherwise for the use of such last-mentioned railway, in the conveyance of such passengers; and the proprietor or company of proprietors of every such last-mentioned railway shall in like manner keep and enter or cause to be entered an account of all sums of money so paid or accounted for to him or them as last aforesaid, and for or in respect of which the duties shall or ought to have been paid as aforesaid by such first-mentioned proprietor or company; [*Provision as to times of delivery of such accounts to the commissioners of stamps and taxes rep.* 37 & 38 *Vict. c.* 96 (*S.L.R.*): *see substituted provisions* 26 & 27 *Vict. c.* 33, *s.* 13]; and to and with every such account there shall be annexed and delivered an affidavit (to be taken before any one of her Majesty's justices of the peace) of such proprietor or other person as aforesaid, or of the secretary, chief clerk, or accountant of such proprietor or company or other person, stating that the deponent is well acquainted with the books and accounts of the said proprietor, company, or other person, and that he has examined and checked the same, and also the account to which such affidavit is annexed, and that to the best of his knowledge, information, and belief such last-mentioned account doth contain and is a true and faithful account of all and every sum and sums of money received or charged by or for such proprietor or company or other person aforesaid for the hire, fare, or conveyance of passengers on any railway during the period comprised in such account, and of all other matters and things required by this Act to be contained in such account; and such proprietor or company or other person shall at the time of delivering every such account, pay or cause to be paid to the receiver general of stamps and taxes, or to the officer authorized by the said commissioners to receive the same, for the use of her Majesty, the duties chargeable under this Act for or in respect of all and every the sum and sums of money so received or charged as aforesaid, and contained or which ought to be contained in such account.

5. PROPRIETORS OF RAILWAYS TO DEDUCT THE DUTY ON THE SUMS TO BE PAID OVER TO OTHER PROPRIETORS.—Provided always, that it shall be lawful (where there shall be no express contract or agreement between the parties to the contrary) for any such proprietor or company to deduct from and retain out of the monies to be paid over to any

such other proprietor or company as aforesaid the amount of the duties by this Act chargeable thereon, and which such proprietor or company receiving such monies shall have paid or be liable to pay.

6. Books containing any such Accounts to be open to inspection of Officers of Stamps—Penalty for refusing to permit Inspection, &c.—All and every the book and books of every such proprietor or company or other person, in which any account relating to such passengers, or to the money received or charged for the hire, fare, or conveyance of the same, or to any money received from or paid or accounted for to any other proprietor or company for such hire, fare, or conveyance as aforesaid, or a proportion thereof, or as or for such toll as aforesaid, shall be entered or kept, shall be open for the inspection and examination at all seasonable times of any officer or officers of stamp duties authorized by the commissioners of stamps and taxes in that behalf; and every such officer shall be at liberty to take copies of or extracts from any such book or account as aforesaid; and if such proprietor or other person, or the secretary or accountant or any clerk or officer of any such proprietor or company or person, having or keeping the custody or possession of any such book, or having power to produce the same, shall, upon demand made by any such officer, and upon producing and showing his authority, refuse to permit such officer of stamp duties to inspect and examine such book or to take copies thereof or extracts therefrom or of or from any account entered or contained therein, or shall refuse to produce such book to such officer of stamp duties for his inspection and examination, every such person so offending shall for every such offence forfeit the sum of fifty pounds.

7. Railway Proprietors to give Bond for securing the Duties.—The proprietor or company of proprietors of every such railway, and every other person, before any passengers shall be conveyed or caused to be conveyed by him or them on any railway as aforesaid, shall give security, by bond, to her Majesty, with a condition that such proprietor or company or other person as aforesaid shall from time to time enter and keep and cause to be kept and rendered, in the manner directed by this Act, the accounts by this Act required to be kept and rendered by such proprietor and company and persons respectively, containing and setting forth justly, truly, and faithfully all the several matters and things by this Act required to be contained and set forth therein; and that such proprietor or company or person, and his or their secretary, accountant, and clerk, and every other person under or subject to his or their order, direction, or control, having the custody or possession of any books or book of such proprietor or company or other person as aforesaid, in which any account relating to any passengers conveyed upon any railway, or the money received, charged, accounted for, or paid for the hire, fare, or conveyance of the same, shall be contained or entered, shall from time to time, upon every reasonable request of any officer of stamp duties authorized as aforesaid, produce and show to such officer and permit him to inspect and examine the same, and to take copies thereof or extracts therefrom and of and from any account entered or contained therein; and that such proprietor or company or other person aforesaid shall and will well and truly pay or cause to be paid, for the use of her Majesty, at the times and in manner directed by this Act, all and every the duties which shall from time to time become chargeable under this Act, and payable by him or them upon or for or in respect of the passengers, or the hire or fare or conveyance of the passengers, which shall be so conveyed as aforesaid along any railway; and that such proprietor or company, or other person aforesaid, shall well and truly do and perform, and cause to be done and performed, all such acts, matters and things as by this Act are required or directed to be done or performed by or on the part or behalf of such proprietors or company or other person; and every such bond shall be taken with sufficient sureties to the satisfaction of the commissioners of stamps and taxes, and in such sum as the said commissioners may judge to be reasonable and proper; and every such security shall be renewed from time to time, whenever and so often as such bond shall be forfeited, or as the parties to the same or any of them shall die, or become bankrupt . . . or reside in parts beyond the seas, whenever and so often as the said commissioners shall in their discretion require the same to be renewed; and if any proprietor or company of proprietors of any such railway, or other person as aforesaid, shall convey or cause to be conveyed upon any railway any passengers for hire, without having first given such security by bond to her Majesty, in manner herein-before directed, or if any proprietor or company of proprietors of any railway shall permit or

suffer any passengers to be conveyed for hire upon such last-mentioned railway by any other person or company, before such other person or company shall have given security as aforesaid, and before a certificate, signed by the proper officer of stamp duties in that behalf (which certificate, such officer is hereby authorized and required to give,) that such security hath been given, shall have been issued, or after notice in writing, signed by any authorized officer of stamp duties and delivered to the secretary or chief clerk of the proprietor or company of proprietors of such railway, or left at the office of such railway with any clerk or officer there, that any security ought, in pursuance of this Act to be renewed, or is required to be renewed and before a certificate, signed as aforesaid, that the same has been renewed, shall have been issued, or if any such proprietor or company of proprietors, or other person, shall refuse or neglect to renew such security, whenever and so often as the same is or shall by or in pursuance of this Act be required to be renewed, such proprietor or company or person shall forfeit the sum of one hundred pounds, and the further sum of one hundred pounds for every day during the period for which there shall be any refusal, neglect, or default to give or renew such security as aforesaid, or for every day on which any such passengers shall be permitted to be conveyed before such security shall be given or renewed, and a certificate thereof issued as aforesaid, according to the true intent and meaning of this Act.

[*Ss.* **8–12** *rep.* 32 *&* 33 *Vict. c.* 14, *s.* 39, *but see* 32 *&* 33 *Vict. c.* 103, *s.* 15.]

13. No Stage Carriage to carry a greater number of Passengers than it is constructed to carry—What Number of Passengers a Stage Carriage shall be deemed to be constructed to carry.—[*Recital*] No stage carriage shall be allowed to carry at one time a greater number of passengers in the whole or in the inside or on the outside thereof, than the same is constructed to carry according to the regulations of this Act; and no such carriage shall be deemed to be constructed to carry a greater number of passengers than the same will contain at one time upon fit and proper seats provided therein or thereupon for that purpose, allowing for every passenger, on an average, upon each and every separate seat, a space convenient for sitting thereon of sixteen inches, measuring in a straight line lengthwise on the front of each seat: Provided always, that no child under five years of age, sitting in the lap, shall be deemed a passenger within the meaning of this Act.

See 32 *&* 33 *Vict. c.* 115, *s.* 9.

14. The Number of Passengers which a Stage Carriage is constructed to carry to be painted thereon—If any Stage Carriage be used without having the proper particulars painted thereon, the Proprietor shall forfeit L.10.—No stage carriage shall be used or employed unless nor until there shall be truly painted in words, at length and in legible and conspicuous Roman letters, one inch at the least in height, and of a proper and proportionate breadth, and in a colour different from and opposite to the colour of the ground on which such letters shall be painted, and in one or more straight horizontal line or lines, upon some conspicuous part on the outside of such carriage, at the back thereof, and also in the inside thereof, and where the same shall be constructed to carry passengers in different compartments, then in each such compartment, and so that the same shall be at all times plainly and distinctly visible and legible, the number of passengers which such carriage is constructed to carry according to this Act in the whole, and on the outside and in the inside thereof respectively, and in such compartment; and if any stage carriage shall be used or employed without having all and every such particulars painted thereon in manner aforesaid, or if any stage carriage shall be used or employed having thereon or in or on any part thereof any words or figures, or any particulars whatever, specifying or importing, or tending or intended to signify or import, that the same is constructed or in any way authorized to carry a greater number of passengers in the whole, or on the outside or in the inside thereof respectively, or in any compartment thereof than the same is truly constructed to carry according to the regulations of this Act, the proprietor thereof shall forfeit the sum of ten pounds.

15. If a greater number of Passengers be carried than the Carriage is constructed to carry or than the Particulars specify, the Driver, &c. shall forfeit L.5.—If the number of passengers at any one time conveyed in, upon, or about any stage carriage shall be greater in the whole, or upon or about the outside thereof, or in

the inside thereof, or in any compartment thereof respectively, than the same is constructed to carry according to the regulations of this Act, or than any particulars painted thereon shall specify in the whole, or upon the outside thereof, or in the inside thereof, or in any compartment thereof respectively, the driver and conductor or guard thereof for the time being respectively shall forfeit the sum of five pounds.

16. Any Constable or Passenger may measure the Seats—Penalty for refusing to permit the Measuring of the Seats, L.5.—It shall be lawful for any constable or peace officer at any time and also for any person travelling or having immediately before travelled by any stage carriage, in any case where he shall have reason for believing or suspecting that a greater number of passengers are carried or are about to be carried, or have immediately before, or at any time during the journey last performed, been carried, by such stage carriage, to measure the seats or any of the seats in or upon such carriage, in order to ascertain the length thereof respectively, or the number of passengers which the said carriage is constructed to carry; and if any person shall refuse to permit the seats in or upon any such stage carriage to be measured, or shall by any means or in any way prevent or attempt to prevent any constable, peace officer, or other such person as aforesaid from or hinder or obstruct him in measuring the same, the person so offending shall forfeit for every such offence the sum of five pounds.

17. Number of Passengers allowed to be carried on the Outside of Stage Carriages.—No stage carriage, the top or roof of which shall be more than eight feet nine inches from the ground, or the bearing of which on the ground shall be less than four feet six inches from the centre of the track of the right or off wheel to the centre of the track of the left or near wheel, shall be allowed to carry in any case more than the number of outside passengers herein-after respectively mentioned; (that is to say,) not more than five outside passengers where such carriage shall be constructed to carry, according to the regulations of this Act, not exceeding nine passengers in the whole; not more than eight outside passengers where such carriage shall be constructed to carry, according to the said regulations, in the whole exceeding nine and not exceeding twelve passengers; not more than eleven outside passengers where such carriage shall be constructed to carry, according to the said regulations, in the whole exceeding twelve and not exceeding fifteen passengers; not more than twelve outside passengers where any such carriage shall be constructed to carry, according to the said regulations, in the whole exceeding fifteen and not exceeding eighteen passengers; and not more than two additional outside passengers for every three additional passengers which any such carriage shall be constructed to carry, according to the said regulations, in the whole; and if any greater number of outside passengers shall be carried by any such stage carriage as aforesaid than is herein-before specified and allowed, the driver of such stage carriage, and the conductor or guard thereof, at the time when such offence shall be committed, shall respectively forfeit the sum of five pounds

18. This Act not to alter the Regulations of 2 & 3 Will. 4, c. 120—Recovery of Penalties for Offences relating to Stage Carriages.—Nothing in this Act contained shall in any way alter or affect any of the regulations or provisions contained in the said Act passed in the second and third years of the reign of his late Majesty King William the Fourth relating to stage carriages, now in force, which shall not be inconsistent with the regulations and provisions herein contained; and all the clauses and provisions contained in the said Act relating to the recovery of penalties before any justice of the peace shall be applied and be put in force for the recovery of any penalty imposed by or incurred under this Act: Provided always, that it shall be lawful for any person to inform and prosecute for any penalty incurred as well by the owner or proprietor of any stage carriage, as by the driver, conductor, or guard thereof, under this Act so far as relates to the particulars to be painted on stage carriages, or to carrying a greater number of passengers by any stage carriage than the same is constructed to carry, or than is allowed by this Act; provided the information be exhibited or the complaint made within ten days after the offence shall have been committed: Provided also, that where by this Act any penalty is imposed upon the driver and conductor or guard of any stage carriage respectively for one and the same offence, only one prosecution shall be had or maintained for the recovery of such penalty against such driver or conductor or guard, at the option of the person prosecuting for the same.

19. Evidence in Prosecutions relating to the carrying of Passengers by Stage Carriages.—In any prosecution for the recovery of any penalty relating to the carrying

of passengers by any stage carriage, or to the number of passengers which any stage carriage shall be constructed to carry, if proof be made of the due admeasurement of the height or bearing of such stage carriage, or of the seat or any of the seats in or upon any such carriage, or of the particulars painted thereon, the same shall be deemed and received as evidence thereof without the production of such carriage.

[*S.* **20** *rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*). *Ss.* **21, 22** *rep.* 33 *&* 34 *Vict. c.* 99, *s.* 2.]

23. A RETURN OF DUTY ON PROBATES, &C. TO BE MADE BY THE COMMISSIONERS OF STAMPS IN RESPECT OF DEBTS, IF CLAIMED IN THREE YEARS.—[*Recital* of 55 *Geo.* 3, *c.* 184] Where it shall be proved by oath and proper vouchers to the satisfaction of the said commissioners of stamps and taxes, that an executor or administrator hath paid debts due and owing from the deceased, and payable by law out of his or her personal or moveable estate, to such an amount as, being deducted from the amount or value of the estate and effects of the deceased for or in respect of which a probate or letters of administration shall have been granted in England, or which shall be included in any inventory duly exhibited and recorded in a commissary court in Scotland, shall reduce the same to a sum which, if it had been the whole gross amount or value of such estate or effects, would have occasioned a less stamp duty to be paid on such probate or letters of administration or inventory than shall have been actually paid thereon, it shall be lawful for the said commissioners of stamps and taxes, and they are hereby required, to return the difference; provided the same shall be claimed within three years after the date of such probate or letters of administration, or the recording of such inventory as aforesaid; but where, by reason of any proceeding at law or in equity, the debts due from the deceased shall not have been ascertained and paid, or the effects of the deceased shall not have been recovered and made available, and in consequence thereof the executor or administrator shall be prevented from claiming such return of duty as aforesaid within the said term of three years, it shall be lawful for the said commissioners of stamps and taxes to allow such further time for making the claim as may appear to them to be reasonable under the circumstances of the case.

24. RECOVERY, &C. OF PENALTIES IMPOSED BY THIS ACT—POWERS, &C. OF FORMER ACTS TO CONTINUE IN FORCE.—All pecuniary penalties imposed by or which may be incurred under this Act may be sued or prosecuted for and recovered by the same ways and means, and in the same manner and form, and be mitigated and applied, as any other penalty incurred under any Act relating to the stamp duties may be sued for, prosecuted, and recovered, mitigated and applied; and all the powers, provisions, regulations, forfeitures, pains, and penalties contained in or imposed by any Act or Acts in force with relation to any of the duties under the management of the commissioners of stamps and taxes, so far as the same are or may be applicable in cases not by this Act expressly provided for, and so far as the same shall not be superseded by, and as the same shall be consistent with, the express provisions of this Act, shall be of full force and effect with respect to the duties by this Act granted, and to the matters and things charged or chargeable therewith, in respect of which duty is hereby granted, and shall be applied and put in execution for recovering, securing, and collecting the said duties hereby granted, and for preventing, detecting, and punishing all frauds, forgeries, and other offences relating thereto, as fully and effectually to all intents and purposes as if such powers, provisions, regulations, forfeitures, pains, and penalties had been repeated and specially enacted in this Act with reference to the duties by this Act granted and made payable.

25. CONSTRUCTION OF TERMS USED IN THIS ACT.—Wherever in this Act, with reference to any person, matter, or thing, any word or words is or are used importing the singular number or the masculine gender only, yet such word or words shall be understood to include several persons as well as one person, females as well as males, bodies politic or corporate as well as individuals, and several matters or things as well as one matter or thing, unless it be otherwise specially provided, or there be something in the subject or context repugnant to such construction.

[*Ss.* **26, 27** *rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*).]

SCHEDULE,

CONTAINING

. . . . . .

the Duties in respect of Passengers conveyed for Hire by Carriages travelling upon Railways;

(that is to say,)

For and in respect of all passengers conveyed for hire upon or along any railway, a duty at and after the rate of L.5 for L.100 upon all sums received or charged for the hire, fare, or conveyance of all such passengers.

. . . . . .

Sched. rep. 32 & 33 *Vict. c.* 14, *s.* 39, *and* 33 & 34 *Vict. c.* 99, *but part printed revived by* 32 & 33 *Vict. c.* 103, *s.* 15.

CHAPTER LXXX.

THE INCOME TAX (FOREIGN DIVIDENDS) ACT, 1842 (*Short Titles Act*, 1896).

AN ACT . . . to provide for the assessing and charging the Property Tax on Dividends payable out of the Revenue of Foreign States.

[5th August 1842.]

Title in part rep. 56 & 57 *Vict. c.* 14 (*S.L.R.*).

[*Preamble.*]

[*S.* 1 *rep.* 37 & 38 *Vict. c.* 96 (*S.L.R.*).]

2. PERSONS INTRUSTED WITH THE PAYMENT OF FOREIGN DIVIDENDS OR ANNUITIES SHALL DELIVER ACCOUNTS THEREOF—COMMISSIONERS FOR SPECIAL PURPOSES TO MAKE ASSESSMENTS THEREON—DUTY TO BE PAID INTO THE BANK OF ENGLAND, &C.—[*Recital of* 5 & 6 *Vict. c.* 35, *s.* 29] All persons intrusted with the payment of annuities, or any dividends or shares of annuities, payable out of the revenue of any foreign state to any persons, corporations, companies, or societies in Great Britain, or acting therein as agents or in any other character, shall, without further notice or demand thereof, deliver or cause to be delivered into the head office for stamps and taxes in England an account in writing containing their names and residences, and a description of the annuities, dividends, and shares intrusted to them for payment, within one calendar month after the same shall have been required by public notice in the London Gazette, and shall also, on demand by the inspector authorized for that purpose by the commissioners of stamps and taxes, deliver or cause to be delivered to him, for the use of the said commissioners for special purposes, true and perfect accounts of the amount of annuities, dividends, and shares payable by them respectively; and the said commissioners for special purposes shall make an assessment thereon under schedule (C.) of the said last-recited Act, at the rate therein prescribed, subject to diminution on occasion of any exemptions to be allowed by the said commissioners for special purposes, giving notice of the amount of such assessments to the respective persons intrusted with such payments, who shall respectively pay the duty on the said annuities, dividends, and shares, on behalf of the persons, corporations, and companies entitled unto the same, out of the monies in their hands; and they shall be acquitted of such payments in like manner, and the like proceedings in all respects shall be had under the said commissioners for special purposes, as are by the said last-recited Act directed in respect of annuities payable out of the public revenue of the United Kingdom: Provided always, that the persons intrusted with such payment shall from time to time pay the duty so assessed thereon into the Bank of England, to the account to be kept at the Bank of England with the receiver general of stamps and taxes, as directed by the said Act, and shall be answerable for such payment, and which duty so assessed shall, in default of such

payment, be recoverable against the persons respectively intrusted with such payments, as other duties charged on the parties may be recovered against them; and if any person intrusted with the payment of any such last-mentioned annuities, or any dividends or shares thereof, in the manner herein mentioned, or acting therein as agent or in any other character, shall neglect or refuse to deliver an account of his name and residence in the manner herein directed, or, after demand, shall neglect or refuse to deliver an account as aforesaid of the amount of such annuities, dividends, and shares, as he is intrusted with the payment of, or in the payment of which he shall act as agent or in any other character, he shall forfeit the sum of one hundred pounds, over and above the duty chargeable on such annuities, shares, or dividends.

[*S.* **3** *rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*).]

CHAPTER XCIII.

THE TOBACCO ACT, 1842 (*Short Titles Act*, 1896).

AN ACT to amend an Act of the Fourth Year of Her present Majesty, to discontinue the Excise Survey on Tobacco, and to provide other Regulations in lieu thereof. [10th August 1842.]

[*Preamble recites* 3 *&* 4 *Vict. c.* 18.]

1. MANUFACTURERS TO USE WATER ONLY IN MANUFACTURING TOBACCO, AND NO OTHER LIQUID OR SUBSTANCE THAN AS HEREIN DESCRIBED IN MANUFACTURING SNUFF—PENALTY, L.300.—No manufacturer of tobacco shall, in manufacturing any tobacco, make use therewith of any other material, or any other liquid or substance or matter or thing, than water only, or in manufacturing any snuff make use therewith of any other material, or any other liquid or substance or matter or thing, than water, or water and salt, or alkaline salts only, or lime water in snuff known as Welch or Irish snuff; and every manufacturer of tobacco who shall, in manufacturing any tobacco, make use therewith of any other material, liquid or substance, matter or thing, than tobacco and water only, or in manufacturing any snuff make use therewith of any other material, liquid or substance, matter or thing, than water, or water and salt, or alkaline salts only, or lime water in snuff known as Welch or Irish snuff, and every manufacturer of, dealer in, or retailer of tobacco, who shall add to, mix with, or put into or amongst, or who shall cause or suffer or permit to be added to, mixed with, or put into or amongst any tobacco or snuff, unmanufactured, manufacturing, or manufactured, any other material, liquid, substance, matter, or thing, than, as respects tobacco, water only, and, as respects snuff, water, or water and salt, or alkaline salts only, or lime water in snuff known as Welch or Irish snuff, shall forfeit three hundred pounds.

2. PENALTY NOT TO BE INCURRED BY USE OF ESSENTIAL OILS FOR SCENTING SNUFF, OR OF OIL IN MAKING UP SPUN OR ROLL TOBACCO.—Provided always, that nothing hereinbefore contained shall subject any manufacturer of, dealer in, or retailer of tobacco to the said penalty of three hundred pounds, or to any forfeiture, for or by reason of his scenting or flavouring any snuffs, so that only the essential oils usually made use of for that purpose shall be used for communicating the scent or flavour, nor any manufacturer to the said penalty for or by reason of his using oil in making up spun or roll tobacco.

3. PENALTY ON RECEIVING, SENDING OUT, OR HAVING IN POSSESSION TOBACCO OR SNUFF MANUFACTURED OTHERWISE THAN WITH WATER, &C. L.200.—Every manufacturer of, dealer in, or retailer of tobacco, who shall receive or take into or have in his possession, or who shall sell, send out, or deliver, any tobacco or snuff which shall have been manufactured with, or shall have added thereto or mixed therewith, or into or amongst which there shall have been put, either before or whilst in process of manufacture, or after being manufactured, or in which there shall be found on examination thereof, any other material, liquid, substance, matter, or thing, than, as respects tobacco, water only, or in roll tobacco water and oil only, and, as respects snuff, water, or water and salt, or alkaline salts only, or lime water in snuff known as Welch or Irish snuff, shall forfeit two hundred pounds.

4. Tobacco and Snuff manufactured otherwise than with Water, &c. shall be forfeited.—All tobacco and snuff which shall have been manufactured with, or shall have added thereto or mixed therewith, or into or amongst which there shall have been put, either before or whilst in process of manufacture, or after being manufactured, or which on examination shall be found to contain any other material, liquid, substance, matter, or thing than, as respects tobacco, water only, or in roll tobacco water and oil, and, as respects snuff, water, or water and salt, or alkaline salts only, or lime water in snuff known as Welch or Irish snuff, shall, wheresoever the same may be found, be forfeited.

5. Manufacturers not to have in their possession Sugar, Honey, Leaves, &c.—Penalty, forfeiture thereof and L.200.—No manufacturer of tobacco shall receive or take into or have in his custody or possession any sugar, treacle, molasses, or honey, (except for the necessary and ordinary use of his family, the proof whereof shall lie on such manufacturer,) nor any commings or roots of malt, or any ground or unground roasted grain, ground or unground chicory, lime, sand (not being tobacco sand), umbre, ochre, or other earths, sea weed, ground or powdered wood, moss, or weeds, or any leaves, or any herbs or plants (not being tobacco leaves or plants) respectively, nor any substance or material, syrup, liquid, or preparation, matter or thing, to be used or capable of being used as a substitute for or to increase the weight of tobacco or snuff, on pain of forfeiting the same and two hundred pounds.

[*S.* **6** *is local and personal.*]

7. Officers of Excise may take Samples of Tobacco or Snuff.—It shall be lawful for any officer of excise, at any time that he shall see fit, to take a sample or samples of any tobacco or snuff unmanufactured, or in process of manufacture, or manufactured, in the stock or possession of any manufacturer of, dealer in, or retailer of tobacco, paying for the same, if demanded, at the current wholesale price of such tobacco or snuff.

8. No person to cut, colour, or manufacture, or have in his possession, any Leaves or other things to imitate or to be mixed with Tobacco or Snuff—Penalty, L.200 and Forfeiture thereof, &c.—Every person who shall cut, grind, pound, colour, stain, dye, or manufacture any leaves, or any herb or plant, moss or weed, or any wood, chicory, commings or roots of malt, or any other vegetable or other matter or material, to imitate or resemble tobacco or snuff, or who shall prepare any of the said articles, matters, or materials to be mixed with or to be added to tobacco or snuff, or who shall have in his custody or possession any leaves, or any herb, plant, moss, or weed, or any ground or powdered wood, chicory, commings or roots of malt, or any other vegetable or other matter or material, cut, ground, pounded, coloured, stained, dyed, or manufactured to imitate or resemble tobacco or snuff, or prepared for the purpose of being mixed with or added to tobacco or snuff, or intended to be so cut, ground, pounded, coloured, stained, dyed, or manufactured or prepared, or who shall sell, dispose of, or deliver to any manufacturer of tobacco any leaves, herbs, plants, moss, or weeds, ground or powdered wood, chicory, commings or roots of malt, or other vegetable or other matter, or any preparation or mixture thereof, or any syrup, liquid, or preparation to be used in the manufacture of tobacco or snuff, or to be added to or mixed therewith, shall forfeit two hundred pounds; and all such leaves, herbs, plants, moss, or weed, ground or powdered wood, chicory, commings or roots of malt, and other vegetable or other matter or preparation, or mixture thereof, syrup, liquid, or preparation, together with all machines, tools, materials, vessels, and utensils for cutting, grinding, pounding, colouring, staining, dyeing, manufacturing, or preparing the same, shall be forfeited.

[*S.* **9** *rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*).]

10. Tobacco Stalks not to be removed in less quantities than Fifty Pounds, nor without a Certificate.—No tobacco stalks or returns of tobacco shall be removed from any place in or part of the United Kingdom to any other place or part thereof in any quantity less than fifty pounds weight, nor unless the package containing the same shall have firmly and securely pasted or glued thereon a certificate, clearly written or printed, and signed by the manufacturer by whom the same shall be sent out, or his foreman or chief workman on his behalf, setting forth the name of such licensed manu-

facturer, and the entered premises from which such tobacco stalks or returns of tobacco shall be sent out, the weight of the same, the day on and the month and year in which the same shall be sent out, and the name and entered premises of the licensed manufacturer to whom the same are to be delivered; and every manufacturer of tobacco who shall send out, deliver, or remove or receive any tobacco stalks or returns of tobacco in any less quantity than aforesaid, or not contained in a package having such certificate as aforesaid firmly pasted or glued thereon, or who shall make out or use any false certificate, shall forfeit two hundred pounds; and all tobacco stalks or returns of tobacco which shall be sent out, delivered, or received or be found removing in any less quantity than as aforesaid, or without such certificate as aforesaid, shall be forfeited, and the person removing or who shall have removed the same shall forfeit fifty pounds.

[*Ss.* **11, 12** *rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*).]

13. No person shall hawk about Tobacco or Snuff for sale under a Penalty, and Officers may arrest Offenders, and convey them before a Justice of the Peace, who shall forthwith hear the case and inflict or mitigate the Penalty. —No person or persons shall hawk or sell or offer for sale any tobacco or snuff of any description in any house or premises or in or about the streets or highways or other places, or in any other manner or place whatsoever, except as a licensed manufacturer of or dealer in or retailer of tobacco in his entered premises, on pain of forfeiting all tobacco and snuff in his possession, and one hundred pounds; and it shall be lawful for any officer of excise or customs to arrest and detain any person who shall hawk or sell or offer for sale any tobacco or snuff in any house or premises, or in or about the streets or highways or other places, or in any other manner than as aforesaid, and to convey such person before one or more of her Majesty's justices of the peace residing near to the place where such person shall be arrested and detained; and the justice or justices before whom such person shall be conveyed shall have full authority and he and they is and are hereby required forthwith to hear and determine what shall be then and there alleged against such person, and, on confession of the party or by proof on oath of one or more credible witness or witnesses made of such offence, to convict any person offending as aforesaid; and the person so convicted shall immediately on such conviction pay the said sum of one hundred pounds, or some mitigated amount, not being less than one fourth part thereof; and if any person so convicted shall not forthwith pay down the said penalty or amount, the said justice or justices shall and he and they is and are hereby authorized and required, by warrant under his or their hand, to commit the person so convicted to any gaol or prison of the county, there to be kept to hard labour for three calendar months: Provided always, that nothing herein-before contained shall extend to make liable to the said penalty any servant or person duly employed by any licensed manufacturer of or dealer in tobacco or snuff to travel for orders, and producing samples, in the due and ordinary course of business.

14. Interpretation of Terms.—In the said recited Act and this Act the words "manufacturer of, dealer in, and retailer of tobacco" shall include manufacturers of, dealers in, and retailers of snuff, and snuff millers; and the word "tobacco" shall include tobacco stalks, tobacco flour, returns of tobacco, and segars, and tobacco of every description, except where in terms or by the context a more limited construction shall appear to be intended.

[*Ss.* **15, 16** *rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*).]

CHAPTER XCIV.

THE DEFENCE ACT, 1842 (*Short Titles Act*, 1896).

AN ACT to consolidate and amend the Laws relating to the Services of the Ordnance Department, and the vesting and Purchase of Lands and Hereditaments for those Services, and for the Defence and Security of the Realm. [10th August 1842.]

[*Preamble* (*reciting* 44 *Geo.* 3, *c.* 95 ; 1 *&* 2 *Geo.* 4, *c.* 69 ; 3 *Geo.* 4, c. 108 ; 2 *&* 3 *Will.* 4, *c.* 25) *rep.* 51 *&* 52 *Vict. c.* 57 (*S.L.R.*).]

[*Ss.* **1** (*repealing recited Acts*) **2–4** *rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*).]

5. LANDS, &C. PURCHASED FOR THE SERVICE OF THE ORDNANCE, &C. AND ALL BUILDINGS, &C. THEREON, VESTED IN THE PRINCIPAL OFFICERS.—All messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, and hereditaments, save and except as herein-after is mentioned, which have been heretofore set apart for the use and service or placed under the charge of the ordnance or late barrack department, or which have been heretofore set apart for or placed under the charge of any person or persons acting under the authority of or in trust for her Majesty or of her royal predecessors, for the use and service of the said departments, or for military defences, or which have been heretofore held, used, or occupied, or purchased, vested, or taken by or in the name of or by any person or persons in trust for her Majesty or her royal predecessors, for the use and service of the said departments, or for the defence and security of the realm, either in fee or for any life or lives, or otherwise howsoever, and all erections, and buildings which now are or which shall or may hereafter be erected and built thereon, together with the rights, members, easements, and appurtenances to the same respectively belonging, shall be and become and continue vested in the principal officers of her Majesty's ordnance for the time being, and their successors in the said office, according to the nature and quality of and the respective estates and interests in such messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, and hereditaments, in trust for her Majesty, for the service of the said ordnance department, or for such other public service as her Majesty shall from time to time by any order in council be pleased to direct.

6. LANDS HEREAFTER TAKEN, &C. TO BE VESTED IN THE SAME MANNER.—From and after the setting apart or placing under charge, or purchase, and conveyance, grant, or demise thereof, all other messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, and hereditaments, which shall at any time or times hereafter be set apart for the use and service or placed under the charge of the ordnance or late barrack department, or which shall be hereafter set apart for or placed under the charge of any person or persons acting under the authority of or in trust for her Majesty or her royal predecessors, for the use and service of the said departments, or for military defences, or which shall be hereafter held, used, or occupied, or purchased, vested, or taken by or in the name of or by any person or persons in trust for her Majesty or her royal predecessors, for the use and service of the said departments, or for the defence and security of the realm ; and all erections and buildings which shall then or which may thereafter be erected and built thereon, with the rights, members, easements, and appurtenances to the same respectively belonging, shall be and become and remain and continue vested in the principal officers of her Majesty's ordnance for the time being, and their successors in the said office, according to the nature and quality of and the respective estates and interests in such messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, and hereditaments, in trust for her Majesty, for the service of the said ordnance department, or for such other public service or services as her said Majesty shall from time to time, by any order in council, be pleased to direct.

7. LANDS MAY BE VESTED IN TRUSTEES FOR THE USE OF THE ORDNANCE DEPARTMENT, &C.— . . . It shall be lawful for the said principal officers for the time being to convey, surrender, or assign all or any of the hereditaments and premises which now are or hereafter shall be vested in them, and to direct all or any of the hereditaments and premises which shall hereafter be agreed to be purchased or taken by them to be

conveyed, surrendered, or assigned to a trustee or trustees, for the use of the ordnance department, or the defence of the realm, upon the trusts to which the same shall or ought to be subject, in case from any circumstance whatsoever it shall in the judgment of the said principal officers for the time being be expedient so to do, anything herein or in the said recited Acts contained to the contrary notwithstanding.

S. 7 in part rep. 37 & 38 Vict. c. 96 (S.L.R.).

8. On the death of any person now holding Copyholds, &c. for the Ordnance, the Secretary or other Officer to be admitted on payment of customary Fines, &c.—Provided always, that when and as the person, or, in those cases where there shall be more than one, the survivor of the persons, in whom any messuages, buildings, castles, forts, lines, or other fortifications, lands, tenements, or hereditaments of copyhold, customary, or ancient demesne tenure, heretofore purchased or taken as aforesaid, are now respectively vested, shall die, and when any messuages, buildings, castles, forts, lines, or other fortifications, lands, tenements, or hereditaments, of any such tenure, shall hereafter be purchased or taken as aforesaid, the secretary for the time being of the said principal officers, or any other officer of the ordnance department, or other person whom the said principal officers, or any two or more of them, shall from time to time appoint, shall be admitted to such messuages, buildings, castles, forts, lines, or other fortifications, lands, tenements, or hereditaments, except that in the case of any mortgage or security such admittance shall be at the option of the said principal officers; and that on the death of any person filling, or who shall have filled the office of such secretary, or the office of such officer as shall be so appointed, and who shall have been admitted, or of the person who shall have been admitted to any such messuages, buildings, castles, forts, lines, or other fortifications, lands, tenements or hereditaments, the secretary for the time being of the said principal officers who shall succeed or then be in office, or any other officer of the ordnance department, or other person who shall be from time to time appointed as aforesaid, (as the case may be,) shall be admitted to such messuages, buildings, castles, forts, lines, or other fortifications, lands, tenements, or hereditaments; and that on the respective deaths of the person or persons in whom the messuages, buildings, castles, forts, lines, or other fortifications, lands, tenements, or hereditaments, herein-before in that behalf mentioned, are now vested, and on whose death or deaths a heriot, fine, or any other sum or due would be due or payable, and on the death of the secretary or other officer or other person who shall be admitted as aforesaid, the lords and ladies of the manor of which the said premises are respectively holden, and their stewards, shall be entitled (in case no alienation shall have previously taken place) to such heriots, fines, and fees, and sums of money and other dues, as shall be due and payable and of right accustomed upon the death of a tenant and the admission of a new tenant, and as they would have been entitled to in case this Act had not been passed; but nevertheless that such person or persons shall only continue tenant or tenants, and such secretary or officer or other person as aforesaid shall only be admitted for the purpose of ascertaining and preserving to the lord or lady of the manor the right of escheat and all other rights, and for the purpose of performing such services (if any) as ought to be performed, and of determining when the heriots, fines, fees, and sums of money and dues, due or payable on the death of a tenant and the admission of a new tenant, shall become due and payable; and the said messuages, buildings, castles, forts, lines, or other fortifications, lands, tenements, or hereditaments, as regards the legal estate, and for all purposes of alienation, and all other purposes, save as aforesaid, shall be and become and continue vested in the said principal officers and their successors for the time being.

9. Principal Officers may purchase Lands, &c. and take Leases on behalf of the Crown.—It shall be lawful for the said principal officers for the time being of her Majesty's ordnance from time to time to contract for and purchase, for and on behalf of her Majesty, any messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, or hereditaments, or to take or purchase any lease of the same which shall in their judgment be desirable to be purchased, for and on behalf of the said ordnance or barrack services, or the defence of the realm, upon such terms as to the said principal officers shall seem meet, and to enter into any contracts necessary for that purpose; *and all such messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, and hereditaments, so to be purchased, shall be conveyed or surrendered*

to the said principal officers, in trust for her Majesty. [*Rep.* 37 & 38 *Vict. c.* 96 (*S.L.R.*).]

10. Power given to Bodies politic and others to treat.—It shall be lawful for all bodies politic or corporate, ecclesiastical, or civil, and all feoffees or trustees for charitable or other public purposes, and for all tenants for life and tenants in tail, and for the husbands, guardians, trustees, committees, curators or attorneys of such of the owners or proprietors, of or persons interested in any messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, and hereditaments, which have been or may be hereafter agreed to be purchased or taken for the use of the said ordnance department, as shall be femes covert, infants, lunatics, idiots, or persons beyond the seas, or otherwise incapable of acting for themselves, to contract or agree with the said principal officers for the time being, either for the absolute sale or exchange of any such messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, or hereditaments, or sale of any reversion after any estate or estates, for lives or years, or for the grant of any lease either for life or lives or for any term of years certain therein, or for such period as the exigency of the public service shall require, and to convey, surrender, demise, or grant the same accordingly; and all contracts, sales, conveyances, enfranchisements, surrenders, leases, and agreements, which shall be made in pursuance hereof, shall be valid and effectual in law to all intents and purposes whatsoever, and shall be a complete bar to all dower and claims of dower, estates tail and other estates, rights, titles, trusts, and interests whatsoever.

[*Ss.* **11,** *rep.* 37 & 38 *Vict. c.* 96 (*S.L.R.*).]

12. Lands, &c. may be sold, exchanged, or let.—Save and except as herein-after is mentioned, it shall and may be lawful for the said principal officers for the time being to sell, exchange, or in any manner dispose of, or to let or demise any of the messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements or hereditaments respectively, which shall be vested in them under and by virtue of this present Act, with their respective appurtenances, either by public auction or private contract; and to convey, surrender, assign, or make over, or to grant or demise the same respectively (as the case may require,) to any person or persons who shall be willing to purchase or take the same in exchange or otherwise respectively, and also to do any other act, matter, or thing in relation to any such messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, and hereditaments, which shall by the said principal officers be deemed beneficial to the public service, in relation thereto, or for the better management thereof, which might be done by any person having a like interest in any such like messuages, buildings, castles, forts, lines or other fortifications, manors, lands, tenements, or hereditaments: Provided always, that nothing in this Act contained shall be construed to give to the said principal officers of her Majesty's ordnance for the time being a greater or better estate in the said messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements and hereditaments, or any of them, than was vested in her Majesty, or in the person or persons holding the same in trust for her Majesty, at the time of the passing of this Act.

13. Purchase Monies shall be paid to those whom the Principal Officers may direct, for the use of her Majesty.—The monies to arise and be produced by the sale or exchange of any of the said messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, or hereditaments, which shall be so sold or exchanged under the provisions of this present Act, shall be paid by the respective purchaser or purchasers thereof, or the person or persons making such exchange, to such person or persons as the said principal officers for the time being shall direct or appoint to receive the same, for the use of her Majesty; and the receipt of the said principal officers for such monies, (such receipt to be indorsed on every such conveyance, surrender, or assignment as aforesaid), shall effectually discharge the purchaser or purchasers, or person or persons, by whom or on whose account the same shall be paid.

14. After Purchase Money paid, the Purchaser to have full right and possession.—Immediately from and after the payment of such purchase money, and the execution of every such conveyance, surrender, and assignment as aforesaid, the purchaser or purchasers therein named or the person or persons making such exchange as aforesaid, shall be deemed and adjudged to stand seised and possessed of the messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, and

hereditaments, which shall be so purchased or taken in exchange by, and conveyed, surrendered, assigned, or made over to him, her, or them respectively, and notwithstanding any defect in the title of the said principal officers thereto, freed and absolutely discharged of and from all and all manner of prior estates, leases, rights, titles, interests, charges, incumbrances, claims, and demands whatsoever, which can and may be had, made, or set up in, to, out of, or upon or in respect of the same messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, and hereditaments, by any person or persons whomsoever on any account whatever (save and except such estates, leases, rights, titles, interests, charges, incumbrances, claims, and demands whatsoever, as in any such conveyance, surrender, deed of exchange, or assignment shall be excepted).

15. Compensation to be made where legal or equitable rights are established; but not to exceed the Purchase Money received by such Principal Officers.—Provided always, that in case any person or persons shall have any just and legal or equitable right to any of the messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, and hereditaments, which shall be so sold, exchanged, and conveyed as aforesaid, or to any part or parts thereof, or to any charge, incumbrance, or demand affecting the same, and not being under any of the disabilities herein-after mentioned, and shall within five years next after such right shall by law or equity accrue to or become vested in him, her, or them respectively, or, being femes covert (except femes covert whose estates have been or may be sold under the authority of this or any other Act for that purpose), persons within the age of twenty-one years, or out of the realm, or not of whole mind, at the time of such sale, exchange, and conveyance as aforesaid, shall, within five years next after they shall respectively come and be discovert at the age of twenty-one years, out of prison, within this land, or of whole mind, make out and establish such right or claim to the satisfaction of the said principal officers, then and in such case the principal officers shall make or cause to be made a fair and reasonable compensation or satisfaction for every such right and claim so made out and established as aforesaid; but such compensation or satisfaction shall not in any case exceed the amount of the purchase money or purchase monies which shall have been paid to and received by the said principal officers for the messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, and hereditaments, in respect whereof such right or claim shall be so made out as aforesaid, or a proportional part thereof, exclusive of the value of any buildings or improvements which shall have been erected or made thereon for the use of the said ordnance or barrack departments, or for the defence of the realm.

16. Principal Officers may authorize persons to survey and mark out Lands, &c. and treat with Owners for the absolute purchase thereof, &c.—It shall be lawful for the principal officers of her Majesty's ordnance for the time being to enter on, survey, and mark out, or to cause to be surveyed and marked out, any lands, buildings, or other hereditaments or easements wanted for the service of the ordnance department, or for the defence of the realm, or to stop up or divert any public or private footpaths or bridle-roads, and to treat and agree with the owner or owners of such lands, buildings, hereditaments, or easements or with any person or persons interested therein, either for the absolute purchase thereof, or for the possession or use thereof during such time as the exigence of the public service shall require.

17. When Footpaths, &c. are stopped up, other Paths to be made in lieu thereof.—Provided always, that whenever any footpath or bridle-road shall be stopped up as aforesaid, another path or road shall be provided and made in lieu thereof respectively, at the expense of the ordnance department, and at such convenient distance therefrom as to the principal officers of her Majesty's ordnance for the time being shall seem proper and necessary.

18. Bodies politic, &c. may agree for the sale of Lands, &c.—It shall be lawful for all bodies politic or corporate, ecclesiastical or civil, and feoffees or trustees for charitable or other public purposes, and for all tenants for life and tenants in tail, and for the husbands, guardians, trustees, committees, curators, or attornies of such of the owners or proprietors of or persons interested in any such lands, buildings, or other hereditaments so surveyed and marked out as shall be femes covert, infants, lunatics, idiots, or persons beyond the seas, or otherwise incapable of acting for themselves, to contract and agree with such principal officers, either for the absolute sale of such lands, buildings,

or other hereditaments, or for the grant of any lease, either for any term of years certain therein, or for such period as the exigence of the public service shall require, and to convey, surrender, demise, and grant the same to such principal officers, in trust for her Majesty accordingly; and all such contracts, sales, conveyances, surrenders, leases, and agreements shall be valid and effectual in law to all intents and purposes whatsoever.

19. In default of treating, or where the parties do not agree, the persons authorized by her Majesty may require two Justices, &c. to put her Majesty's Officers in possession—Jury to be summoned to value the Premises.—In case any such bodies or other persons hereby authorized to contract on behalf of themselves or others as aforesaid, or any other person or persons interested in any such lands, buildings, or other hereditaments which shall be so marked out and surveyed as aforesaid, shall for the space of fourteen days next after notice in writing subscribed by or on behalf of the said principal officers shall have been given to the chief officer or officers of any such body, or to such other persons hereby authorized to contract on behalf of others, or interested themselves, as aforesaid, or left at his, her, or their usual place of abode, refuse or decline to treat or agree, or by reason of absence shall be prevented from treating or agreeing with the said principal officers, or shall refuse to accept such sum of money as shall be offered by the said principal officers as the consideration for the absolute purchase of such lands, buildings, or other hereditaments, or such annual rent or sum as shall be offered for the hire thereof, either for a time certain or for such period as the exigence of the public service may require, then and in such case it shall be lawful for the said principal officers to require two or more justices of the peace, or three or more deputy lieutenants (one of whom shall be a justice of the peace), or two or more deputy governors for the county, riding, city, or place where such lands, buildings, or other hereditaments shall be, to put the said principal officers, or any person appointed by them, into immediate possession of such lands, buildings, or other hereditaments; which such justices or deputy lieutenants or deputy governors are hereby required to do, and shall for that purpose issue their warrants under their hands and seals, commanding possession to be so delivered, and shall also issue their warrants to the sheriff of the county, riding, city, or place wherein such lands, buildings, or hereditaments shall be situate, to summon a jury; and every such sheriff is hereby authorized and required to summon and return a jury, properly qualified, of the number of twenty-four, and in the manner required by the laws of England, Ireland, and Scotland respectively, who shall meet at some convenient time and place to be mentioned in such summons, out of whom a jury of twelve shall be drawn, in such manner as juries for the trial of issues joined in her Majesty's courts at Westminister and Dublin are drawn by law in England and Ireland respectively, and in such manner as juries are drawn by law for any trial in Scotland; and in case a sufficient number shall not appear, the said sheriff shall choose others of the by-standers, or that can speedily be procured, being qualified as aforesaid; and the said jurymen may be challenged by the parties on either side, but not the array; and the said justices, deputy lieutenants, or governors respectively may summon witnesses, and adjourn any such meeting if jurymen or witnesses do not attend; and the jury, on hearing any witnesses and evidence that may be produced, shall on their oaths, (which oaths, as also the oaths of such witnesses, the said justices, deputy lieutenants, or governors respectively are hereby empowered and required to administer,) find the compensation to be paid, either for the absolute purchase of such lands, buildings, or other hereditaments or for the possession or use thereof, as the case may be: Provided always, that it shall not be lawful for the said principal officers to use any lands, buildings, or hereditaments taken under the compulsory process aforesaid for the barrack service, or to erect any barrack buildings thereon.

20. Appeal may be made to the Court of Exchequer, &c. if either party is dissatisfied with the verdict of the Jury.—Provided always, that if the said principal officers, or any person interested in the lands, buildings, or other hereditaments so marked out and surveyed, shall be dissatisfied with the verdict of any such jury, it shall be lawful for them, or their attornies, in England and Ireland, to apply to the Court of Exchequer at Westminster or Dublin respectively in the term next, and in Scotland to apply within fourteen days after the finding any such verdict to the Court of Session in Scotland in time of session, or lord ordinary on the bills in time of vacation, and to suggest to the said courts or lord ordinary respectively that they have reason to be dissatisfied with such verdict, and forthwith give notice thereof to the said

principal officers on the one part, or to the party so interested as aforesaid on the other part (as the case may be); and thereupon, in England and Ireland, the proceedings that shall have been had and the verdict of such jury shall be returned into the said courts of Exchequer respectively, and if it shall appear to the said courts to be proper, such suggestion shall be entered on such proceedings as aforesaid; and a writ shall thereupon, by rule of such court, or order of any judge of such court, be directed to the sheriff of the county where such lands, buildings, or other hereditaments shall lie, or, if the same shall lie in two counties, to the sheriff of either of such counties, to summon either a common or special jury, according to the application that shall have been made in that behalf, and as the court and as such judge shall allow, and who shall respectively be qualified, according to law, to appear before the said justice or justices of assize or nisi prius of that county at the next assizes, if the same shall not happen sooner than twenty-one days after such suggestion, otherwise at the next succeeding assizes, and the compensation to be paid either for the absolute purchase or for the possession or use of such lands, buildings, or other hereditaments (as the case shall be) shall at such assizes be ascertained by such jury, in like manner as any damages may be inquired of upon any inquisition or inquiry of damages by any jury before any judge of assize or nisi prius, and the verdict of such jury shall be returned to the said Court of Exchequer, and shall be final and conclusive; and in Scotland, if it shall appear proper to the said Court of Session or lord ordinary, upon such application, so to do, the said court or lord ordinary shall order and direct the sheriff of the county where such lands, buildings, or other hereditaments shall lie, or, if the same shall lie in two counties, to the sheriff of either of such counties, to summon another jury in the manner in which juries are summoned in Scotland, properly qualified according to law, to appear before the lords or lord of justiciary at the next circuit, if the same shall not happen sooner than twenty-one days after such application, otherwise at the next succeeding circuit; and the compensation as aforesaid for the lands, buildings, or other hereditaments (as the case shall be) shall at such circuit be ascertained by a jury drawn from the jury summoned as aforesaid in such manner as juries are drawn in Scotland, under the direction of the said lords or lord of justiciary aforesaid, and the verdict of such last-mentioned jury shall be final and conclusive, without being subject to review or challenge of any kind: Provided always, that it shall be lawful for the court that shall have allowed such inquiry, on any application made within four days after the commencement of the succeeding term, or session if in Scotland, to order any new trial in relation thereto.

21. Jury may ascertain the proportion to be paid out of Compensation for Land to Lessees, &c.—Provided always, that it shall be lawful for any jury impanelled before any justice of the peace or magistrate, or deputy lieutenant or deputy governor, or before any judge of assize or nisi prius, to ascertain the compensation to be paid for any lands, buildings, or other hereditaments under this Act, and they are hereby required to ascertain and settle the proportion to be paid out of such compensation to any persons having any interest as lessees or tenants at will, or otherwise, in any such lands, buildings, or other hereditaments, and the proportion to be paid out of such compensation shall be returned on the verdict: Provided also, that where any such inquiry before any judge of assize or nisi prius shall be had on the application of any such lessee or tenant at will, or other person having any inferior interest in any such lands, buildings, or other hereditaments, who may have been dissatisfied with the proportion of compensation settled by the jury to be paid in respect of such interest, it shall not be lawful for the jury in any such case to alter the amount of the entire compensation awarded by any former verdict to be paid for such lands, buildings, or other hereditaments, but only the proportion thereof to be paid to the person or persons having separate interests therein; and it shall not be lawful for any jury on any such inquiry as aforesaid had before any judge of assize or nisi prius, as to any such compensation, on the application of any such officer as aforesaid, in any case in which the whole compensation awarded by them shall be the same as the whole compensation awarded by the former jury, to alter the proportion that shall have been settled by any such former jury, as to any separate interests in any such lands, buildings, or other hereditaments.

22. Court to require the party to give Security for Costs.—Provided also, that it shall be lawful for the court or judge or lord ordinary making any such rule or order

to require that the party on whose application the same shall be made shall give such security as shall to such court, judge, or lord ordinary seem proper, for payment of costs, under such circumstances as shall be specified in any rule or order made for that purpose.

23. Lands not to be taken for the defence of the Realm without consent of the Owners unless in certain cases.—Provided always, that no such lands, buildings, or other hereditaments shall be so taken without the consent of the owner or owners thereof, or of any such person or persons as aforesaid, acting for or on the behalf of the owner or owners thereof, unless the necessity or expediency of taking the same shall be first certified by the lord lieutenant, or two of the deputy lieutenants, or by the governor or two deputy governors of the county, riding, city, or place in which such lands, buildings, or other hereditaments lie, and unless such lands, buildings, or other hereditaments be authorized by a warrant of the Treasury, or unless the enemy shall have actually invaded the United Kingdom at the time when such lands, buildings, or other hereditaments shall be so taken.

24. Erections on Lands taken for a temporary purpose may be removed before the Lands are restored to the Owner, and Compensation shall be made for the Injury done—Act not to affect any Agreement between the parties.—In all cases where any lands, buildings, or other hereditaments shall have been taken under the provisions of the said recited Act of the forty-fourth year of the reign of his Majesty King George the Third, or shall be taken under the provisions of this Act, for any term of years, or for such period only as the exigencies of the public service shall require, it shall be lawful for the said principal officers, notwithstanding anything herein-before contained, or any other law to the contrary thereof notwithstanding, at any time before the possession thereof shall be delivered up to the owner or owners thereof, or other person or persons acting on his, her, or their behalf, to take down and remove all such buildings or other erections which shall or may have been built or erected thereon for the public service, after the same was or were so taken as aforesaid, and to carry away the materials thereof, making such compensation to the owner or owners of such lands, buildings, or other hereditaments, or other person or persons acting on his, her, or their behalf, for the damage or injury which may have been done thereto or to the soil thereof, by the erection of any such buildings, or otherwise in consequence of the same having been occupied for the public service, as the said principal officers shall think reasonable, and as shall be agreed upon in that behalf; and if such owner or owners, or other person or persons acting on his, her, or their behalf, shall not be willing to accept the compensation so offered, it shall be lawful for the said principal officers to apply to and require two justices of the peace of the county, riding, stewartry, city, or place to settle and ascertain the compensation which ought to be made for such damage or injury as aforesaid, and such justices shall settle and ascertain the same accordingly, and shall grant a certificate thereof; and the amount of such compensation, so settled and ascertained and certified, shall forthwith be paid by the treasurer, accountant, or other proper officer for the time being of the office or department for the use of which such lands, buildings, or other hereditaments shall have been taken to the person or persons entitled thereto: Provided always, that nothing in this Act contained shall extend or be construed to extend to alter, prejudice, or affect any agreement which hath been or shall or may be entered into by the said principal officers with any owner or owners of any such lands, buildings, or other hereditaments, or other person or persons acting on his, her, or their behalf, in relation to any such buildings or erections; but every such agreement shall remain valid and effectual in like manner as if this Act had not been passed.

25. Application of Purchase Money of the amount of L.200 or upwards payable for Lands of incapacitated persons, &c.—Where any money shall have been or shall be agreed, or shall have been or shall be required by the verdict of any jury, to be paid or given by the said principal officers, for the absolute purchase or exchange of any messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, grounds, tenements, or hereditaments, or of any reversion as aforesaid, or of the enfranchisement of any copyhold or purchase of any other interest belonging to any such body, or other person or persons under any disability or incapacity, or not having the absolute interest therein, the said money, if the same shall amount to or exceed the sum of two hundred pounds, shall be paid into the hands or in the name of the remembrancer or other proper officer of her Majesty's Court of Exchequer at Westminster or

Dublin, or the Queen's remembrancer or other proper officer of the said court at Edinburgh respectively, for the time being, for the use and benefit of the owners and proprietors of such messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, or hereditaments; and such remembrancer, Queen's remembrancer, or other proper officer respectively is hereby authorized and required to receive or accept and to give a discharge for the same, and upon the acceptation or receipt thereof to sign a certificate to the barons or judges of the said Court of Exchequer under his hand, purporting and signifying that such money or other consideration was received or accepted by and paid to him in pursuance of this Act, for the use and benefit of such owners or proprietors as shall be named in such certificate; and the said certificate shall be filed or deposited in the said Court of Exchequer at Westminster, Dublin, or Edinburgh respectively, and a true copy thereof, signed by the said remembrancer, Queen's remembrancer, or other proper officer respectively of such court, shall and may be read and allowed as evidence for the purposes herein-after mentioned; and the said remembrancer, Queen's remembrancer, or other proper officer respectively is hereby required, upon receipt of any such sum or sums of money as aforesaid, to pay the same into the Bank of England, or Bank of Ireland, or Bank of Scotland, or Royal Bank of Scotland, as the case may require; and immediately upon the filing or depositing of such certificate the said messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, or hereditaments shall be and become vested in the said principal officers of the ordnance for the time being, for the service of the said ordnance department, or for the defence of the realm, in trust for her Majesty.

26. Barons of Exchequer, &c. to make order for the investment of such Purchase Money.—The barons or judges of her Majesty's Court of Exchequer at Westminster, Dublin, or Edinburgh, of the degree of the coif, for the time being, or any one or more of them, shall be and they or he are or is hereby authorized and empowered, in a summary way, upon motion or petition for or on behalf of any person or persons interested in or entitled to the benefit of the money so paid to and received by the said Queen's remembrancer or other proper officer respectively, or the interest or produce thereof, and upon reading the certificate directed to be signed by the said remembrancer, Queen's remembrancer, or other proper officer respectively concerning the same as aforesaid, and receiving such further satisfaction as they or he shall think necessary, to make and pronounce such orders and directions for paying the said money or any part of the same, or for placing out such part thereof as shall be principal in the public funds, or upon government or real securities, and for payment of the dividends or interest thereof, or any part thereof, to the respective persons entitled to receive the same, or for laying out the principal or any part thereof, in the purchase of other lands or hereditaments, to be conveyed and settled to, for, and upon the same uses, trusts, intents, or purposes, as the said messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, or hereditaments so purchased or taken, stood settled at the time of the payment of such money as aforesaid, or as near thereto as the same can be done, or otherwise concerning the disposition of the said money or any part thereof and the interest of the same, or any part thereof, for the benefit of the person and persons entitled to and interested in the same respectively, or for appointing any person or persons to be a trustee or trustees for all or any of such purposes, as the said court shall think just and reasonable.

27. Application of Purchase Money when less than L.200 and above L.20.—Provided always, that in case such purchase money as is lastly herein-before mentioned shall be less than the sum of two hundred pounds, and shall exceed the sum of twenty pounds, then and in all such cases the same shall, at the option of the person or persons for the time being entitled to the rents and profits of the messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, or hereditaments, so purchased, or of his, her, or their guardian or guardians, committee or committees, in case of infancy or lunacy, to be signified in writing under their respective hands, be paid into the hands of the said remembrancer, Queen's remembrancer, or other public officer respectively of the said Court of Exchequer, in order to be applied in manner herein-before directed; or otherwise the same shall be paid, at the like option, to three trustees, to be nominated by the person or persons making such option, and approved of by the said principal officers, or any three or more of them, such nomination or approbation to be signified in writing, under the hands of the nominating and approving

parties, in order that such principal money may be invested in the purchase of stock in the public funds, and that such stock, when purchased, and the dividends arising therefrom, may be applied in manner herein-before directed, so far as the case be applicable, without obtaining or being required to obtain the order, direction, or approbation of the said Court of Exchequer.

28. Application of Purchase Money when less than L.20.—Provided always, that in case such purchase money shall be less than twenty pounds, then and in all such cases the same shall be applied to the use of the person or persons who would for the time being be entitled to the rents and profits of the messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, and hereditaments, so purchased, in such manner as the said principal officers, or any three or more of them, shall think fit, or in case of infancy or lunacy, then to his, her, or their guardian or guardians, committee or committees, for the use and benefit of such person or persons entitled respectively.

29. Stock and Securities vested in Remembrancer, &c. shall, in case of death or removal, vest in the Successor, &c.—Upon the death or removal of any such remembrancer, Queen's remembrancer, or other proper officer respectively, all stock and securities vested in him by virtue of this Act shall vest in the succeeding remembrancer, Queen's remembrancer, or other proper officer respectively, for the purpose herein-before mentioned, without any assignment or transfer; and all moneys paid into the said banks respectively in pursuance of this Act, or remaining in the hands of any remembrancer, Queen's remembrancer, or other proper officer respectively, at his death or removal, and not invested in the funds or placed out on securities as aforesaid, shall be paid to the succeeding Queen's remembrancer or other proper officer respectively for the time being.

30. Persons in possession deemed entitled till the contrary shall be shown.—Provided always, that where any question shall arise touching the title of any person to any money to be paid into the Bank of England, or Bank of Scotland, or Royal Bank of Scotland, in the name and with the privity of the remembrancer of the Court of Exchequer, or the Queen's remembrancer, or other proper officer, pursuant to the directions of this Act, or to any bank annuities to be purchased with any such money, or the dividends or interest of any such Bank annuities, the person or persons who shall have been in possession of the property so purchased at the time of the purchase shall be deemed to have been lawfully entitled to such property according to such possession, until the contrary shall be shown to the satisfaction of the said Court of Exchequer, and the dividends or interest of the Bank annuities to be purchased with such money, and also the capital of such bank annuities, shall be paid, applied, and disposed of accordingly, unless it shall be made to appear to the said court that such possession or receipt was wrongful, and that some other person or persons was or were lawfully entitled to such property.

31. Enrolment of Deeds relating to Lands, &c. in England and Wales.—It shall be lawful for the said principal officers to cause all or any deeds, decrees, evidences, or writings, or other instruments whatsoever, relating to any messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, or hereditaments, in England or Wales, now or hereafter vested in the said principal officers, to be enrolled in the office of the remembrancer of her Majesty's Court of Exchequer, or in the High Court of Chancery; and such fees shall be paid for such enrolment as the Treasury shall from time to time appoint, not exceeding such fees as have been used and accustomed to be taken.

32. Deeds not required to be acknowledged, &c.—Any rule or practice requiring deeds to be acknowledged or requiring an affidavit or declaration to be made of the due execution of any deeds before enrolment, shall not apply to any deed, decree, evidence, or writing, or other instrument whatsoever by this Act required to be enrolled in her Majesty's courts of Chancery or Exchequer in England or Ireland.

33. Office Copies of Enrolments of such Deeds, &c. admissible in Evidence.—A copy of the enrolment of every such deed, decree, writing, or other instrument as aforesaid, signed by the proper officer having the custody of such enrolment, and proved upon oath to be a true copy, shall for every purpose whatsoever be sufficient evidence of the contents of such deed, decree, writing, or other instrument, in all courts of law and equity, and on every other occasion whatsoever shall be of the same force and effect, to all intents and purposes, as such deed, decree, writing, or other instrument would be if the same were respectively produced and shown forth.

34. Ordnance may sue as "the Principal Officers of her Majesty's Ordnance," without naming them—Privileges and Prerogatives of the Crown not to be curtailed.—It shall be lawful for the said principal officers, and their successors for the time being, and they are hereby authorized and empowered, to bring, prosecute, and maintain any action or actions of ejectment, or other proceedings at law or in equity, for recovering possession of any messuages, buildings, castles, lines, or other fortifications, manors, lands, tenements, or hereditaments, as now are or hereafter may be vested in them by this Act or otherwise howsoever, and to distrain or sue for any arrears of rent which shall have become or shall become due for or in respect thereof under any parol or other demise from the said principal officers, and also to bring, prosecute, and maintain any other action or suit in respect of or in relation to such messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, or hereditaments last aforesaid, or of any trespass or encroachment committed thereon, or damage or injury done thereto, and also upon all covenants and contracts whatsoever now or hereafter made by, to, or with the said principal officers relating to the said ordnance or barrack department, or the defence of the realm; and also to prosecute any other action, suit, or legal proceedings, civil or criminal, concerning the goods or chattels, stores, monies, and other property, under the care, control, and disposition of the said principal officers; and in every such action, suit, or other proceedings the said principal officers for the time being shall be called "the principal officers of her Majesty's ordnance," without naming them or any of them; and no such action, suit, or other proceedings shall abate by the death, resignation, or removal of such principal officers or any of them, any thing in any Act or Acts of Parliament, or law or laws to the contrary thereof notwithstanding: Provided nevertheless, that nothing herein contained shall be taken to defeat or abridge, in any such action, suit, or other proceedings, the legal rights, privileges, and prerogatives of her Majesty, but that in all such actions, suits, or other proceedings, brought or instituted in the name and on behalf of the principal officers of her Majesty's ordnance, and in all matters relating thereunto, it shall be lawful for the said principal officers to claim, exercise, and enjoy all the same rights, privileges, and prerogatives, which have been heretofore claimed, exercised, and enjoyed in any actions, suits, or other proceedings whatsoever in any court of law or equity, by her Majesty or her predecessors, in the same manner as if the subject matter of the said suits or other proceedings were vested in the crown, and as if the crown were actually a party to such actions, suits, or other proceedings: Provided also, that it shall be lawful for her Majesty to proceed by information in her Court of Exchequer, or by any other crown process, legal or equitable, in any case in which such actions, suits, arbitrations, or other proceedings might have been otherwise instituted.

[*S.* **35** *rep.* 37 *&* 38 *Vict. c.* 98 (*S.L.R.*).]

36. Principal Officers may give Notices, make Claims, and authorize Entries, &c.—It shall be lawful for the said principal officers for the time being, and they are hereby authorized and empowered, to give any notice, make any claim or demand, and to depute or authorize any person or persons to make an entry, which shall be requisite or expedient to be given or made by or on behalf of her Majesty with a view either to compel any tenant, lessee, or occupier of any part or parts of the said possessions of the crown which are or may be by law vested in the principal officers of her Majesty's ordnance, to quit or deliver up the possession thereof, or to compel the performance of any covenant, contract, or engagement in relation thereto, or to recover possession on non-performance of any covenant, contract, or agreement, or to compel the payment of any sum of money which ought to be paid in respect thereof, and to give any other notice, make any other claim or demand, and depute any person or persons to make any other entry which shall or may be requisite or expedient to be given or made by or for or on behalf of her Majesty touching any of the said possessions which are or may be by law vested in the principal officers of her Majesty's ordnance; and every such notice, claim, or demand which shall be given or made in writing under the hands of the said principal officers for the time being, or any two of them, for any of the purposes aforesaid, and every entry which shall be made by any person or persons deputed or authorized by the said principal officers to make the same, on behalf of her Majesty, into or upon any of the said estates or possessions, shall be good, valid, and effectual to all intents and purposes whatsoever.

37. Principal Officers exempted from Personal Liability.—Nothing contained in this Act, or to be contained in any covenant, contract, lease, or other instrument hereby authorized to be entered into, made, taken, or executed by the said principal officers or any of them, shall extend to charge the person or persons of all or any of the said principal officers executing any such covenant, contract, lease, or other instrument, or the heirs, executors, or administrators of the same principal officers, or any of them, or their or any of their own proper lands, tenements, goods, or chattels, with or for the performance of all or any of the covenants, conditions, or agreements in the same covenant, contract, lease, or other instrument to be contained on the part of the same principal officers, or any of them; nor shall any officer of her Majesty's ordnance be personally liable, nor shall the property of any such officer be liable to any legal process or execution in such actions, suits, arbitrations, or other proceedings as aforesaid.

[*S.* **38** *rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*).]

39. Property belonging to her Majesty not to be vested in the Officers of the Ordnance.—Provided always, that nothing contained in this Act, or in any of the Acts herein recited or referred to, shall extend or be deemed or construed to extend to vest in the principal officers of her Majesty's ordnance, or their successors, in any manner or for any purpose whatsoever, any messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, or hereditaments, part or parcel of the hereditary possessions and land revenues of her Majesty in right of her crown, or in right of her duchy of Lancaster, or to divest, defeat, destroy, lessen, abridge, impair, or in any manner abrogate, diminish, or prejudice the estate, right, title, interest, power, or authority of her Majesty, in, to, out of, or over any part or parcel of the hereditary possessions or land revenues of her crown, or of her duchy of Lancaster, notwithstanding the same or any part thereof may have been heretofore set apart or may hereafter be permitted to be set apart for the use and service or placed under the charge of the ordnance or late barrack department, or other departments, and notwithstanding the same may have been heretofore or may hereafter be permitted to be set apart for or placed under the charge of any person or persons acting under the authority of or in trust for her Majesty, or any of her royal predecessors, for the use and service of the said departments or either of them, or for military defences, and notwithstanding the same may have been heretofore or may hereafter be held, used, or occupied for the use and service of the said departments or either of them, or for the defence and security of the realm, or otherwise howsoever; but the estate, right, title, interest, power, and authority of her Majesty, in and to all and every parts and part of the hereditary possessions and land revenues of her crown and of her duchy of Lancaster, shall remain, continue, and be good, valid, and effectual and in full force, to all intents and purposes; anything in this Act or in any of the said recited Acts to the contrary thereof in anywise notwithstanding.

40. Nothing in this Act or recited Acts to repeal or alter 10 Geo. 4, c. 50, or 2 & 3 Will. 4, c. 1.—Provided always, that nothing contained in this Act, or in any of the Acts herein recited or referred to, shall extend or be deemed or construed to extend to repeal, alter, or affect an Act passed in the tenth year of the reign of his late Majesty George the Fourth, intituled "An Act to consolidate and amend the laws "relating to the management and improvement of his Majesty's woods, forests, parks, "and chases, of the land revenue of the crown in Ireland, and for extending certain "provisions relating to the same to the Isles of Man and Alderney," or an Act passed in the second year of the reign of his late Majesty William the Fourth, intituled "An "Act for uniting the office of the surveyor general of his Majesty's works and public "buildings with the office of the commissioners of woods, and for other purposes "relating to the land revenues," or any of the clauses or provisions in the said last-mentioned Acts respectively contained.

41. Act not to vest any Property belonging to the Prince of Wales as Duke of Cornwall in the Officers of the Ordnance, &c.—Provided always, that nothing in this Act contained shall vest or be construed to vest in the principal officers of her Majesty's ordnance for the time being any estate or interest in any messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, and hereditaments belonging to his royal highness Albert Edward Prince of Wales and Duke of Cornwall, or other the personage who may hereafter for the time being be entitled to the revenues

of the duchy of Cornwall, in right or in respect of the said duchy, other than or different from the estate and interest under or by virtue of which the principal officers for the time being of her Majesty's ordnance held the same at the time of the passing of this Act; and that nothing in this Act contained shall extend or be construed to extend to affect, alter, prejudice, derogate from the estate, right, title, interest, privileges or authority of his said royal highness or other the personage who may hereafter for the time being be entitled to the revenues of the duchy of Cornwall in right or in respect of the said duchy or the possessions thereof, nor at any time be admitted in any court of law or equity or otherwise construed to alter or affect in any manner the tenure upon which any such messuages, buildings, castles, forts, lines, or other fortifications, manors lands, tenements and hereditaments, were previously to the passing of this Act held or set apart for or placed under the charge of any person or persons acting under the authority of or in trust for her Majesty or of her royal predecessors for the use and service of the ordnance or late barrack department, or for the defence or security of the realm, nor to alter or affect in any manner whatever such estate, right, title, interest, or authority of his said royal highness or other the personage aforesaid in right or in respect of his or her said duchy of Cornwall, or the possessions thereof.

CHAPTER XCVII.

THE LIMITATIONS OF ACTIONS AND COSTS ACT, 1842 (*Short Titles Act*, 1896).

AN ACT to amend the Law relating to Double Costs, Notices of Action, Limitations of Actions, and Pleas of the General Issue, under certain Acts of Parliament. [10th August 1842.]

[*Preamble.*]

1. REPEAL OF PROVISIONS IN LOCAL AND PERSONAL ACTS GIVING DOUBLE AND TREBLE COSTS.—So much of any clause, enactment, or provision in any Act or Acts commonly called public local and personal, or local and personal, or in any Act or Acts of a local or personal nature, whereby it is enacted or provided that either double or treble costs, or any other than the usual costs between party and party, shall or may be recovered, shall be and the same are hereby repealed: Provided always, that in lieu thereof the usual costs between party and party shall and may be recovered, and no more.

[*S.* **2** *rep.* 56 *&* 57 *Vict. c.* 61.]

3. REPEAL OF PROVISIONS IN LOCAL AND PERSONAL ACTS ALLOWING PLEA OF GENERAL ISSUE, &C.—So much of any clause or provision in any Act or Acts commonly called public local and personal, or local and personal, or in any Act or Acts of a local and personal nature, whereby any party or parties are entitled or permitted to plead the general issue only, and to give any special matter in evidence without specially pleading the same, shall be and the same is hereby repealed.

4. UNIFORMITY OF NOTICE OF ACTION.—[*Recital*] In all cases where notice of action is required, such notice shall be given one calendar month at least before any action shall be commenced; and such notice of action shall be sufficient, any Act or Acts to the contrary thereof notwithstanding.

5. GENERAL LIMITATION OF ACTIONS UNDER LOCAL AND PERSONAL ACTS.—And whereas divers Acts commonly called public local and personal, or local and personal Acts, and divers other Acts of a local and personal nature, contained clauses limiting the time within which actions may be brought for anything done in pursuance of the said Acts respectively: And whereas the periods of such limitations vary very much, and it is expedient that there should be one period of limitation only: Be it therefore enacted, that the period within which any action may be brought for anything done under the authority or in pursuance of any such Act or Acts shall be two years, or in case of continuing damages then within one year after such damage shall have ceased; and that so much of any clause, provision, or enactment, by which any other time or period of limitation is appointed or enacted shall be and the same is hereby repealed.

[*S.* **6** *rep.* 37 *&* 38 *Vict. c.* 96 (*S.L.R.*).]